



DANNIS WOLIVER KELLEY

Attorneys at Law

**GLENN COUNTY SCHOOLS**  
**Governing Board Workshop**  
**THE BROWN ACT: WHAT EVERY**  
**BOARD MEMBER SHOULD KNOW**  
**January 21, 2017**

*Presented by:*

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**Glenn County Schools  
Governing Board Workshop  
January 21, 2017**

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## Of Counsel

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Matt Juhl-Darlington is Of Counsel in DWK's Chico, San Francisco and Novato offices. He is a member of the Students and Special Education; Labor, Employment and Personnel (LEAP); and Litigation Practice Groups. Prior to rejoining the firm, Matt was the founder of Matt Juhl-Darlington & Associates.

As a law student, he externed for the Honorable Judge Susan Illston of the Northern District in San Francisco, interned as a Rubin Fellow in the Juvenile Division in the Defender General's office for the State of Vermont in Montpelier, and was a board member of the Hastings International and Comparative Law Review. Prior to law school Matt taught seventh and eighth grade at-risk youth in a self-contained Opportunity Program for the Paradise Unified School District, and interned with Congressman Don Edwards of San Jose.

## EDUCATION

- University of California, Hastings College of Law (J.D.)
- California State University, Chico (Teaching Credential)
- University of California, Santa Cruz (B.A.)

## ADMISSION

- State Bar of California

## PRACTICE AREAS

- Students and Special Education
- Public Finance
- Litigation
- Community Colleges / Higher Education

## MEDIA/PUBLICATIONS



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- Countdown to Bond: Are You Planning a 2016 Bond Election?

## **PROFESSIONAL ACTIVITIES**

Planning Commission for the City of Chico

## **A ONE-PAGE SUMMARY OF BOARDSMANSHIP**

How a school board governs is as important as what steps the board takes to govern.

As board members fulfill governance responsibilities in the areas of vision-setting, human resources, policies, curriculum, finance, judicial appeals, collective bargaining and community leadership, the way in which boards perform the board role is critical.

It is as important as what boards do in providing effective public oversight of the public school systems responsible for educating children and preparing them to be productive citizens.

Whether in the boardroom, out in the community or at home, board members are always trustees for the district. The integrity of the school district's educational program is dependent upon responsible and professional manner in which each board member, and the board collectively, fulfills governance roles and responsibilities.

The demeanor of board members sends as important a message to the public as the actual decisions made by board members do about the quality of leadership of the community's schools.

**There are eight axioms which incorporate the boardsmanship principles essential to effective governance. These are:**

- 1. Board members are members of a team.**
- 2. All children must be the priority.**
- 3. Perceptions of demeanor have dramatic consequences and board members must act accordingly.**
- 4. Diversity of perspectives and styles must be respected.**
- 5. Board members must understand the board's roles and responsibilities.**
- 6. Confidential information must be kept confidential.**
- 7. Board members must strive to know district policies and guidelines.**
- 8. Being effective requires a commitment of time and energy.**

## THE GOVERNANCE TEAM – 7 Key Factors

There are seven (7) major areas identified in a recent article by the American School Board Journal, for a board and a superintendent to consistently review as they work to provide a strong and viable education for all students:

**1. COMMUNICATION:**

- listening and speaking honestly; showing consideration for others.

**2. TRUST:**

- being willing to discuss concerns with the total group without fear;
- not taking disagreement personally.

**3. DECISION MAKING:**

- discussing items independently and objectively; voting as individuals not as blocks; remember the students for whom you have accepted this responsibility.

**4. SUPPORT:**

- supporting, or at least not subverting board decisions even in the event of a disagreement.

**5. ROLES**

- adhering to the board's role in developing policy; understand that you are each one member of a group that the decision making authority extends only to the board table.

**6. GOALS:**

- undertaking activities and decisions that are consistent with the district's goals.

**7. RESPONSIBILITY:**

- putting in the time and effort required to complete the job.

## THE GOVERNANCE TEAM – Key Questions

### Key Questions:

1. Do members of the school board help each other work together as a team? Do we team well with the superintendent? The staff? The community?
2. Do members of the board understand how dependent each board member is on the others?
3. Are governance team members committed to overall district goals as opposed to focusing only on our personal goals?
4. Has the board established goals for itself?
5. Do board members have a positive, supportive attitude? Do we genuinely and publicly acknowledge the contributions of others?
6. Do members of the board exhibit respect for others?
7. Do we respect the superintendent's professional expertise?
8. Does the superintendent respect the board's governance role as elected trustees of the district?
9. Have we established an environment of trust within the board and the district or county office of education?
10. Is the communication among persons on the board honest and free from distrust?
11. Do we make sure we communicate our dedication to students?
12. Do we carry out our responsibilities with a high level of professionalism?
13. Does the board operate with fairness?

## **THE GOVERNANCE TEAM**

### **Agreements of the Board of Education and the Superintendent**

1. Board members will prepare thoroughly before all meetings.
2. Board members and Superintendent will discuss in private any personal issues.
3. Board members and Superintendent will practice honest and open communications on all issues.
4. Board members and Superintendent will discuss and understand their respective roles.
5. Board members will direct all complaints or concerns to the lowest level of the complaint assuring the people involved that their needs will be acted upon.
6. Board members will advise Superintendent of complaints and concerns and expect that they will be handled effectively.
7. Board members and Superintendent agree that having different views and votes is healthy and essential to good decision making.
8. Board members will act in a manner that will allow them to be passionate about an issue while recognizing they represent all students.
9. Board members and Superintendent will keep matters of confidentiality-confidential.
10. Board members recognize that statements made in public by individual board members may be seen as the position of the Board. The Board will decide on issues where a single spokesperson might be in the best interest of the district.
11. Board members and Superintendent will set annual goals and strive to live with the goals without adding major activities during the year.
12. Board members will give the Superintendent prompt and constructive input on policies and curriculum.
13. Board will do an annual self-evaluation.


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**What Board Members Should Know  
About The Brown Act**

**Glenn County Schools**  
January 21, 2017

Presented by:  
**Matthew P. Juhl-Darlington**  
Dannis Woliver Kelley

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## Agenda

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- Role of the Brown Act & Application
- What is a Meeting?
- Agenda Requirements
- Public Rights at Meetings
- Closed Sessions
- Violations of the Brown Act

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## Intent of the Brown Act

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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 good for them not to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

The Ralph M. Brown Act, Gov. Code, § 54950

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## Intent of the Brown Act

- To keep the public informed of the actions, debates and views of locally elected representatives; and
- To provide the procedural framework for local legislators to meet, debate, act and listen collectively to their constituents.

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## Board Role & Conduct

- Board members have collective, not individual authority. Authority to make decisions is only granted to the board as a whole. The full board gives direction to the superintendent, most commonly at board meetings. Individual board members do not have the authority to direct the superintendent or staff, unless otherwise agreed to by the board and superintendent.
- No individual Board member has authority other than as conferred by Board majority.
- Board Bylaws – Code of Ethics, Governance
- Protocol for communicating with staff, requests for information

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## Applicability

- Act applies to a "member of the legislative body of a local agency" which includes "[a]ny person elected to serve as a member of a legislative body who has not yet assumed the duties of office ..."
- Once elected, officials are expected to know the requirements of the Brown Act, even before taking office (Gov. Code, § 54952.1.)

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## Legislative Body

- Includes any:
  - Commission
  - Committee
  - Board

### Whether

- Permanent or temporary
- Decision-making or advisory
- Established by charter, ordinance, resolution, or formal action of the Board.
- Does not include ad hoc committees or committees formed by the Superintendent.

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## What is/is not a Meeting

- A "meeting" is:
  - Any congregation of a majority of members of a legislative body at the same time and place, including teleconference locations, to **hear, discuss, or deliberate** upon any item within the subject matter jurisdiction of the legislative body.
  - There need **not be action** taken or planned, for a "meeting" to occur.

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## Meetings – Location, Logistics

- All meetings must be open and public
  - Teleconference locations must be identified and accessible;
  - At least a quorum must be within District boundaries.
- Meeting place must be accessible to public—nondiscriminatory, accessible to disabled, no payment or purchase required.

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## Meetings – Location, Logistics

- Meeting place must be within District boundaries, with limited exceptions:
  - To comply with court order or attend judicial proceeding;
  - To inspect real or personal property which cannot be brought within bounds of agency;
  - To meet with state or federal elected or appointed officials, when a local meeting impractical; and
  - To participate in meetings of multi-agency significance.

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## What is/is not a Meeting

- Definition of meeting excludes:
  - Appearance of a Board majority at a general conference open to the public involving a discussion of broad issues and attended by a broad spectrum of officials from a variety of governmental agencies;
  - Attendance at open and publicized meetings, organized to address a topic of local concern by a person or organization other than the local agency; and
  - Social or ceremonial occasions.

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## What is/is not a Meeting

- Definition of meeting excludes:
  - Attendance by a Board majority at open and noticed meetings of another body of the same local agency or any other agency; or
  - Attendance by a Board majority at an open and noticed meeting of a standing committee of the Board, if members of the Board that are not members of the committee attend only as observers (Gov. Code, § 54952.2.)

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## What is/is not a Meeting

- **Note:**
  - For any exclusion to apply, Board members must not discuss topics within the subject matter of the district "other than as part of the scheduled program."

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## What is/is not a Meeting

- A majority of the members of a Board shall not, outside a noticed meeting, **use a series of communications** of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the board's jurisdiction.
- This includes communications through:
  - Telephone, electronic mail, facsimile, internet
  - Communication through an intermediary

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## What is/is not a Meeting

An employee or official of a district may engage in separate conversations or communications outside of a meeting with other board members in order to answer questions or provide information regarding a matter that is within the district's jurisdiction, if that person does not communicate to board members the comments or position of any other board member.

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## Board Member Protocol

- Staying informed & being well prepared... without a serial meeting
  - May you receive the report before the board meeting?
  - If so, when does the public get it?
  - May you meet with staff before the board meeting?
  - If so, what are the "do's and don'ts"?
  - May you post a request for input from constituents on your blog, even though other board members might see it?

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## What is/is not a Meeting

Common scenarios of which to be aware:

- Attending other public agency meetings
- Conferences (i.e. CSBA)
- Information from staff (Friday memo)

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## Public Statements—Sample Board Protocol

- Responding to emails sent to Trustees from the public:
  - Trustees will refer the request to the board president with a copy to the superintendent (if the superintendent is not already copied).
  - The board president and superintendent will agree on which of them will respond.
  - If the superintendent responds, s/he will copy all trustees.
  - If the board president responds, s/he will copy the superintendent, who will pass it on to all trustees.

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## Permitted Communications

- Communications limited to providing information (i.e. superintendent's weekly report) or procedural or administrative matters do not constitute meetings
  - Receipt of written legal advice is not a meeting!
- Private briefings for less than a quorum of board members on background events concerning agenda items do not violate the Act *unless the comments or position of any other board member is disclosed.*

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## Agenda Requirements

- Publicizing a Meeting
  - Agenda to be posted in a location freely accessible to members of the public
    - 72 hours before regular meeting
    - 24 hours before special meeting
  - Post on the District's website;
  - Mail to persons requesting mailed notice including local news media; and
  - Agendas and backup should be made available when distributed to a majority of the Board.

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## Agenda Requirements

- Content of Agenda
  - Time and location of meeting;
  - How a request for accommodation may be made;
  - List of agenda items in sufficient detail to allow public to determine whether to participate ("brief general description").
    - No required order of items;
    - Closed session items must meet specific description requirements.

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## Emergency Meetings

- Not subject to the 24 hour notice requirement
  - But only for:
    - Work stoppage
    - Crippling activity
    - Activity which severely impairs public health, safety or both
    - Disaster
  - Must still attempt to provide notice

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## Action & Vote Requirements

- “Action”
  - Decision by a majority of the board;
  - A collective commitment or promise by a majority of the board to make a positive or a negative decision;
  - An actual vote by a majority of the board members upon a motion, proposal or resolution.
- Board shall act by majority vote of entire membership

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## Action on Non-Agenda Items – Regular Meetings

- Board may consider items not on agenda in two circumstances
  - Emergency Items
    - Majority vote
    - Limited application
  - Need to take immediate action
    - Arose after agenda posted
    - Requires 2/3 vote, unanimous if less than 2/3rds of Board present
- Sometimes better to use Special Meeting if sufficient advance notice

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## Non-Agenda Items

- Board may also:
  - Ask for clarification
  - Make a brief announcement or brief report of activity
  - Request staff to "report back" or place item on future agenda
  - "Briefly respond to statements made or questions posed by persons exercising their public testimony rights"  
(Gov. Code § 54954.2.)

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## Meetings – Public Rights

- Right to comment:
  - Agenda must provide opportunity for public comment
    - Before or during consideration of item
    - Public comment must be allowed on any other matter under the Board's jurisdiction
- Board may place reasonable time limitations on particular topics or speakers
- At special meetings, the public only has the right to address agenda items

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## Meetings – Public Rights

- Public may place items "directly related to school district business" on the agenda  
(EC 35145.5)
- Is Board obligated to speak to each agenda item?
- Check Board Bylaws

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## Board Member Conduct - Scenario

- Union survey shows that teachers have low opinion of and no confidence in board.
- A board member's spouse writes a statement accusing the union president of manipulating the survey to get the desired results. The spouse delivers the statement to another board member and asks him to read it on her behalf during public comment.
- The board member does as requested.
- Was the board member's conduct appropriate? May a board member step out of his role and address the board during public comment?

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## The Board Meeting: A Limited Public Forum/Public Comment (Cont.)

- Public Comment Prior to open/closed session
- At Regular/Special Meeting
- Regulating length & content; derogatory remarks; disruption

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## The Board Meeting: A Limited Public Forum/Public Comment

- Rights of person requesting item to speak at meeting when item heard;
- Number of speakers – provide opportunity for everyone to speak;
- Physical arrangement of room;
- Video / audio recording by member of public.

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## Meetings – Public Rights

- Public meetings are considered a limited public forum
  - The public has broad constitutional rights to comment on any subject relating to the business of the governmental body.
  - Attempt to restrict the content of such speech must be narrowly tailored to effectuate a compelling state interest.
  - Prohibiting members of the public from criticizing school district employees is unconstitutional.
- Board need not permit disruptive conduct in a meeting
  - Penal Code section 403 prohibits acts that disturb or break up a lawful assembly or meeting.
- Any person attending a public meeting may videotape, unless disruptive.

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## Closed Session

- Board may meet in closed session to discuss/take action on items within enumerated "exceptions" to the open meeting requirements;
- Prior to closed session, disclose in an open session the items to be discussed in closed session which may be a reference to items on the Board's agenda (Gov. Code § 54957.7).
- Act provides sample "safe harbor" closed session item descriptions.

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## Closed Session Procedure

- Who may attend?
  - Board
  - Administrators
  - Legal counsel
  - Board's negotiators
  - Parties specifically allowed
- Who may **not** attend?
  - Opposing party?
  - Other consultants?

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## Closed Session Topics

### ▪ Most Common:

- Personnel Actions – Appointment, Employment, Evaluation, Discipline/Dismissal/Release
- Hearing "Complaints or Charges" against employees - requires 24-hour notice of right to open session
- Conference with Labor Negotiator – for unrepresented employees
- Student Matters

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## Closed Session Topics (Cont.)

- Student discipline hearings - require 24-hour notice of right to open session (Ed. Code)
- Real Property Transactions
- Pending and Anticipated Litigation
- Tort Claims

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## Personnel Exception

- Governing boards may meet in closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee

(Gov. Code, § 54957, subd. (b)(1).)

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## Employment Contracts

- All contracts of employment with a superintendent, deputy superintendent, assistant superintendent, associate superintendent... or other similar chief administrative officer or chief executive officer of a local agency **shall be ratified in an open session of the governing body which shall be reflected in the governing body's minutes** (Gov. Code, §53262(a).)

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## Employment Contracts (Cont.)

NOTE: The Brown Act **prohibits a board from holding a special meeting** "regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a "local agency executive." (Gov. Code § 54956(b).)

- A local agency executive is defined to include a person who is the head of a department.
- This prohibition applies to consideration of superintendent employment agreements (Gov. Code § 3511.1(d).)
- Is CBO subject to this prohibition?

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## Complaints or Charges

- Governing boards may meet in closed session to hear complaints or charges brought against the employee by another person or employee **unless** the employee requests a public session (Gov. Code, § 54957, subd. (b)(2).)
- 24-Hour Notice Requirement:
  - Written notice of right to have complaints or charges heard in an open session
  - Delivered, personally or by mail, to the employee at least 24 hours before the closed session (Gov. Code § 54957(b)(2).)

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## Complaints or Charges (cont.)

- Performance evaluation is not a hearing about specific complaints or charges brought against an individual (*Fischer v. Los Angeles Unified Sch. Dist.* (1999).)
- "Complaint" and "Charge" connote an accusation; something which is brought against an individual (*Bell v. Vista Unified Sch. Dist.* (2000).)
- Decision to initiate or consider moving forward with formal discipline is not a hearing (*Kolter v. Los Angeles Unified Sch. Dist.* (2009).)

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## Labor Negotiations

- May discuss salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for represented employees, any other matter within the statutorily provided scope of representation.

(Gov. Code, § 54957.6(a))

- Prior to closed session, the Board must identify its negotiator(s) in open session.

**Note:** Compliance with Brown Act not required for discussions regarding negotiations with represented employees (Gov. Code, § 3549.1, Rodda Act).

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## Real Property Transactions

- Limited to meeting with real property negotiators prior to sale or lease of property, to discuss confidential information concerning price or terms of payment during property negotiations.

– General real property issues are not included within this exception.

(Gov. Code, § 54956.8)

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## Pending and Anticipated Litigation

- To confer with, or receive advice from legal counsel regarding pending or threatened litigation when discussion in open session would prejudice the position of the district in the litigation.
  - Includes consideration of tort claims
  - Must counsel be present?

(Gov. Code, § 54956.9)

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## Reporting Out

- Board must publicly report action taken in closed session.
  - “Action taken” is defined in the Act;
  - Must report the vote of every member present;
  - Must provide copies of contracts, agreements or other approved documents to a requester at time session ends (if prior written request on file), otherwise next day.
- Specific requirements for reporting out depending on type of action taken.

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## Reporting Out (Cont.)

- Personnel actions:
  - Must provide title of position;
  - Cannot use name of employee, best practice to provide ID number if more than one employee with the same title;
  - The report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(Gov. Code, § 54957.1, subd. (a)(5).)

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## Confidentiality of Closed Session

- Board member may not disclose confidential information from closed session
- Consequences:
  - Injunctive relief
  - Disciplinary action
  - Referral to grand jury
  - Expose the District to potential liability
- "If a board member violates the legal requirement to keep all closed session discussion confidential, the Board President and Superintendent will take immediate action to rectify the matter."

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## Violations

- Consequences for violation of the Brown Act:
  - Criminal liability exists if there is "intent to deprive public" (Gov. Code, § 54959)
  - Public can sue to stop violation of Act
  - Declaratory relief regarding past violation of the Act
  - Payment of attorneys' fees
  - Voiding of action taken in violation of the Act
  - Court may order taping of closed session

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**BROWN ACT REFRESHER**  
**January 21, 2017**

**DO'S AND DON'TS**

1. **DO** discuss with another Board member district business and/or agree upon positions concerning district business as long as such discussion does not constitute contact among a majority of members of the board. (54952.2 (a))
2. **DO** attend, with other board members, social/ceremonial functions. A majority of members, however, cannot discuss among themselves business of a specific nature that is within their local agency's subject matter jurisdiction. (54952.2 (c)(5))
3. **DO**, as an individual board member, confer with constituents, advocates, consultants, news reporters, local agency staff or a colleague. (54952.2 (c)(1))
4. **DO** attend, with other board members, an open and publicized meeting of a legislative body of another local agency. Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their local agency's subject matter jurisdiction. (54952.2 (c)(4))
5. **DO** attend, with other board members, an open and noticed meeting of a standing committee of the legislative body provided that the legislative body members who are not members of the standing committee attend only as observers. (54952.2 (c)(6))
6. **DO** attend, with other board members, an open and publicized meeting organized by another organization to address a topic of local community concern. A majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction. (54952.2 (c)(3))
7. **DO** attend, with other board members, conferences or similar gatherings open to the public that address issues of general interest to the public or to public agencies of the type represented by the legislative body. A majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction. (54952.2 (c)(2))



1. **DO NOT** meet privately with other board members, either in person, by phone or any other electronic means, to discuss any issue, which is within the subject matter jurisdiction of the board, if doing so, would constitute contact among a majority of members of the board. (54952.2 (a))
2. **DO NOT**, with the majority of other board members, meet privately for retreats or workshops. (54952.2 (a))
3. **DO NOT** meet all together with board members or in sub-groups with staff or any other third party in advance of a meeting for a collective briefing. (54952.2 (a))
4. **DO NOT** send an e-mail to other board members, polling or discussing any issue, which is within the subject matter jurisdiction of the board, if doing so, would constitute contact among a majority of members of the board. (54952.2 (b))
5. **DO NOT** forward any e-mail to other board members that discusses any issue, which is within the subject matter jurisdiction of the board, and that requests board members responses to the issue, if doing so, would constitute contact among a majority of members of the board. (54952.2 (b))
6. **DO NOT** carbon copy an e-mail to other board members, which discusses any issue, which is within the subject matter jurisdiction of the board, and that requests board members responses to the issue, if doing so, would constitute contact among a majority of members of the board. (54952.2 (b))
7. **DO NOT** attend a board meeting or retreat outside of district boundaries unless one of the limited exceptions, such as to interview a potential employee from another district or interview the public from another district about the employment of a superintendent applies. (54954(b) and (c))

DWK SF 632974v1

# Brown Act Refresher

January 21, 2017

## *True or False?*

1. A meeting, as defined in the Brown Act, occurs only when some action is taken.
2. A board meeting may be held by teleconference.
3. A teleconference does not require the agenda to be posted.
4. Members may poll each other by e-mail conference on any issues before the Board.
5. If a majority of the board attends a CSBA dinner, and sit together, this violates the Brown Act.
6. The board may take a vote by secret ballot.
7. Board members may consider any item not on the agenda if a two-thirds vote of the members approve.
8. A member of the public may address the board on his/her impressions of his child's teacher's performance.
9. The board may limit the amount of time members of the public are allowed to speak on matters of public interest.
10. The board may prohibit members of the public from criticizing board decisions.
11. A special meeting of the board may be held at any time and on any topic.
12. The board is not required to report in open session the items to be discussed in closed session.
13. When receiving advice from legal counsel in closed session, the attorney must be present.
14. In general, action taken in closed session must be reported out at the same meeting.
15. The board may not consider the release of temporary employees in closed session.
16. The report of employee appointment or dismissal must include the employee's name.
17. Agendas of meetings and writings distributed to board members in connection with a subject to be discussed or considered at a public meeting must be made available within 48 hours after a request is made.
18. The board is not required to keep minutes of its closed session meetings.
19. The board may not discuss anticipated reductions in personnel or programs in closed session.



DANNIS WOLIVER KELLEY

Attorneys at Law

## ABOUT THE FIRM

Danniss Woliver Kelley (DWK) is a full service education law firm focused entirely on serving the legal representation needs of California public school districts, county offices of education, community colleges and other educational organizations. Established in 1976, we were the first California law firm to devote its practice to governing boards, public schools and education. With more than 45 attorneys and 7 offices across the state, DWK is one of the largest women-owned law firms in the country.

DWK provides trusted counsel and forward-thinking legal solutions on all education law issues from board ethics to students' rights, collective bargaining to charter oversight, litigation to construction, bond finance to business and technology. Our depth of experience and expertise is unmatched in California and provides an invaluable resource to our clients. As legal counsel to hundreds of districts and county offices throughout the state, we are keenly aware of trends that impact our clients' interests. We recognize issues that others may fail to spot, and work in an innovative, preventive and practical manner with clients to stay ahead of and resolve issues before they become problematic.

We are a diverse firm committed to excellence in the practice of education law. We offer high-quality, creative, cost-effective, and prompt legal services in every aspect of education law. Our practice groups are comprised of experienced attorneys who possess thorough knowledge of the issues and challenges facing public schools.

## PRACTICE AREAS

***Labor, Employment and Personnel*** - DWK was representing public education agencies in our state before the Educational Employment Relations Act was even passed in 1976. We continue to provide unparalleled service and results-oriented advice to employers throughout California in all areas of labor-management relations law. Members of our firm are trained in interest-based bargaining, including CFIER, and are trainers in the CTA/Management Interest-Based Negotiations model. We regularly negotiate on behalf of our clients concerning wages, salaries, working hours, healthcare costs containment, family leave, and numerous other issues. We have helped managers to carry out layoffs, to obtain resignations and to assess grievances in terms of what is in the best interest of the district.

***Students and Special Education*** - The Students and Special Education Issues practice group is dedicated to helping school districts, county offices of education, special education local plan areas, and community colleges improve the lives of the students they serve through quality public education programs. We recognize the importance of understanding the districts' obligations to all students, in addition to understanding particular obligations to students with disabilities, foster youth, homeless youth, and other special populations of students' public schools serve. This understanding and perspective enables us to provide practical, efficient, and result-oriented legal services that promote better outcomes for students and the schools that educate them.

***Board Ethics, Transparency and Accountability*** - Maintaining the public's trust and confidence is of utmost importance to school district and community college boards and officials. It is only through securing and maintaining public trust that schools and colleges are able to focus on the fundamental work of teaching and learning and pursue projects to support the educational objectives.

For more than forty years, we have acted as trusted advisors to school districts and community colleges. We have provided counsel not only within specialized areas but also on overarching issues of governance and accountability. Our dedication to the work of school districts and community colleges and long history of advising boards and officials as trusted general counsel on sensitive governance issues provide us the wisdom and awareness to address every legal challenge.

***Business and Property*** - DWK is uniquely qualified to provide expert advice in the full range of business, finance and facilities matters affecting school and community college districts and other public entities in California. We review and negotiate contracts and agreements that span all areas of school district operations, from purchasing equipment and supplies to

retaining professional consultants and independent contractors to assist in the development of specialized curriculum and software.

We advise clients on all matters related to facilities, real estate, property and finance. We help districts analyze development proposals, work with cities and counties to explore funding options for new schools, and negotiate contracts with developers where possible to obtain mitigation in excess of developer fees. We assist districts in obtaining state approvals and in assessing the applicability of federal, state and local requirements. We also advise clients on obtaining local and state funding for school sites and capital projects and have successfully obtained additional sources of funding for clients. Our firm acts as bond counsel on tax exempt financings and advises clients concerning financing mechanisms available to meet various district needs.

**Public Finance** - DWK is a Red Book Bond Counsel law firm has been advising California K-12 public school districts with respect to the financing of land, facilities and equipment through the issuance of tax-exempt and other forms of debt since 1980. We provide full service bond, disclosure and underwriter's counsel services on the following types of transactions: General Obligation Bonds and Elections; Certificates of Participation (COPs); Lease Financings and Private Placements; Note Financings (BANs, TRANs); Mello-Roos CFDs and Bonds; Equipment Leases; Refinancings; and Clean Renewable Energy Bonds (CREBs).

Unlike traditional Bond Counsel firms, DWK's unique combination of education law and public finance practice enables us to identify potential issues missed by traditional municipal finance firms and to resolve such issues before they become difficult problems. We also can craft solutions to address a district's unique needs if they pertain to real estate, funding or construction. We believe that a delivery of legal services that begins with bond issuance and continues to project implementation or construction eliminates the confusion that can arise when multiple firms must be consulted on legal questions related to bonds, and provides greater cost efficiency.

**Construction** - DWK offers the breadth and depth of resources necessary to advise clients throughout the school construction and modernization process. We work with our clients to set clear objectives and then develop an aggressive strategy to reach those goals as a team.

We arbitrate, mediate and negotiate resolutions of claims by contractors for extra work, design defects, compensable and compensable delay, unforeseen site conditions, and acts of God. We represent many public entity owners in complex construction litigation involving multiple parties. We also resolve stop notice claims and other liens, while focusing on the primary goal of project completion.

**Charter Schools** - Unlike other education law firms, DWK prides itself on representing only charter authorizers, to ensure that its representation remains consistent with its clients' needs and is free from influences created by representing charter schools. As a known leader in this complex field, DWK provides vigorous advocacy of school districts, county offices of education, Special Education Local Plan Areas and other affected agencies in matters involving charter schools. This includes legal compliance in obtaining and operating a charter school and other transparency and accountability issues created by charter schools in the State of California. Whether an authorizer needs help responding to charter school advocacy groups, charter management organizations, a single charter school or petition, or the individual needs or complaints of a charter school student, DWK assists authorizers in holding charter schools accountable for meeting requirements of state and federal law, achieving the educational improvement the law requires, preserving taxpayer funds and promoting the interests of authorizers.

**Litigation** - DWK litigators focus on finding solutions first. If litigation becomes necessary, we go into court fighting—we go in to win. Litigation is never anyone's first choice, but when that time comes, you need a law firm on your side that you feel confident has the experience, resources, and expertise to solve your problems, not perpetuate them. The breadth and depth of DWK's litigation practice sets us apart from other firms. Not only are we adept at all aspects of general civil litigation, but we also possess a unique expertise in education law, as well as in the special claims and defenses afforded public entities and the special procedures that govern them. This concentration enables us to devise sound strategies for resolving disputes expediently and cost-effectively.