

Peralta Community College District Bond Measure Oversight Committee
Brown Act Cease and Desist Letter

Background

The Peralta Community College District established the Peralta Community College District Bond Oversight Committee (“Committee”) in order to review the distribution of funds generated from two voter approved bond measures (Measure A & G) as required by California Education Code §15278. The Committee is considered a legislative body and subject to the provisions of the Ralph M Brown Act (“Act”).

On July 12, 2023, the Committee met “in person” and elected a new chairperson. Two members of the Committee appeared remotely using the audio function but did not have their video activated at the time of the vote on the selection of the chairperson. Shortly after the July meeting, the Committee determined that the election did not comply with a provision of the Act that required Committee members appearing remotely to have both audio and video functions operating.

In recognition of the violation, a new election was conducted at its September 2023 meeting in compliance with all the provisions of the Act. At this point, the Committee believed that it had remedied the violation of the Act that took place at the July 12, 2023 meeting.

At its January 10, 2024 meeting, the Committee received a presentation from Attorney John Palmer covering the “Role and Responsibility of Citizens’ Oversight Committees.” As part of the presentation, Mr. Palmer indicated that the Act provides for a two step process to cure a violation of the act. Specifically, the legislative body must redo any action item and issue a “cease and desist” letter confirming that the legislative body would not engage in the same action in the future.

The attached letter is provided to the Committee in order to comply with the statutory scheme for curing a violation of the Act and providing the Committee with a complete defense to any possible future action. See California Government Code § 54960.2 (c)(3)(a)

Discussion

California Government Code § 54953 (f)(2)(C) requires the member of a legislative body who elects to participate remotely to have both audio and visual technology functioning during the meeting. As noted above, at the July meeting, two Committee members participated in the selection of the chair by voting during a time when they only had the audio function activated, which did not comply with the Act.

A legislative body can cure and correct the violation and avoid future liability by redoing the action taken and issuing an “unconditional commitment to cease, desist from, and not repeat the past action” letter.

The Committee has already conducted a new election that did comply with the provisions of the Act. The Committee believes that the attached letter substantially complies with the required wording of California Government Code §54960.2 for the “cease and desist” letter with the understanding that there was no formal complaint filed by the District Attorney or member of the public.

Conclusion

While there was no formal complaint filed with the Committee, the Board of Trustees of the Peralta Community College District, or the District Attorney, the Committee inadvertently failed to comply with all the provisions of the Act, which requires it to cure the violation.

By adopting this letter, it demonstrates its commitment to following all the provisions contained in the Act and its willingness to correct any deficiencies on its own volition in order to further the goals of open government.

TO: Residents of the Peralta Community College District

FROM: Peralta Community College District Bond Measure Oversight Committee

RE: Ralph M. Brown Act (“Act”)

At the July 12, 2023 “in person” meeting of the Peralta Community College District Bond Measure Oversight Committee (“Committee”), the Committee met for the purpose of electing a new chairperson. Two of the members of the Committee attended remotely, but neither had their video camera activated at the time the Committee took the action to elect the new chairperson. Under the Act, committee members were required to have both audio and video functions operating in order to participate in any action item. At this meeting, the Committee recognized the votes of these two members in selecting the next chair, which was later determined to not meet the Act’s requirements for voting in the election. It is important to note that at the time of the election, the Committee had not received any formal training on the new remote participation requirements and that the violation was inadvertent with no intent by any member of the Committee to knowingly violate the active audio/video provision of the Act.

In recognition of this violation, the Committee conducted a new election at its September 13, 2023 meeting in conformity with the Act, and all members believed that the violation was corrected. At the January 2024 meeting, the Committee received training on the provisions of the Act and discovered for the first time that there were two steps required to correct the violation. The first was to redo the action item in question, and second, to issue a letter indicating that the Committee is now aware of the violation, has taken corrective action, and will not allow this specific procedural inconsistency to be repeated.

By adopting this letter, the Committee unconditionally commits that it will cease, desist from, and not repeat the past action described above. The Committee may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as “Rescission of Brown Act Commitment.” You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to [subdivision \(a\) of Section 54960 of the Government Code](#). That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Adopted July 10, 2024