



OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY

Mark A. Peterson
DISTRICT ATTORNEY

December 22, 2014

Ted Meriam, Chairperson
Clayton Valley Charter High School Governing Board
1101 Alberta Way
Concord, CA 94521

RE: Brown Act Inquiry

Dear Mr. Meriam:

My office has received complaints regarding the Clayton Valley Charter High School ("CVCHS") Governing Board. Some of the issues raised in the complaints are not within the jurisdiction of my office. Our office continues to evaluate other issues contained in the complaints. At this point, however, some issues require me to follow up with you. These issues involve potential violations of Government Code section 54950 et seq., commonly known as "The Brown Act", in relation to the conduct of meetings of the Board of Trustees of the CVCHS Governing Board. I am particularly interested in the following issues:

1. Does the Brown Act apply to the CVCHS Governing Board? It is my understanding that the CVCHS was created by formal action of the Contra Costa County Board of Education, a "legislative body" subject to the Brown Act, and therefore the CVCHS would be subject to the Brown Act. It is my further understanding that CVCHS receives funding from the charter authorizer and the charter authorizer has a right to appoint a member of the board of directors, if true, this would also render CVCHS subject to the Brown Act.
2. In or around August or September of 2014, did the CVCHS Governing Board hold meetings to discuss reports of investigation of two board members that subsequently led the board to ask one or more board members to resign? If so, were those meetings open session or closed session meetings? If they were closed session meetings, what statute authorized the closed session and were these closed session meetings properly agendized?

3. Did the November 12, 2014, meeting of the CVCHS Governing Board comply with the Brown Act?
 - a. Did the Executive Director read a 10 minute long speech at the beginning of the meeting, but after the public comment cards had been collected? If so, did this speech constitute a brief announcement or brief report on his own activities as envisioned by Government Code section 54954.2(a)(2)?
 - b. Did the discussion of the Executive Director's contract at the November 12, 2014, meeting comply with the Brown Act? I am particularly interested in when a copy of the contract was distributed to all, or a majority, of the CVCHS Governing Board and when copies of the contract were made available to the public.
 - c. Were members of the CVCHS Governing Board recused from the closed session discussion of the Executive Director's contract and required to leave the subsequent open session meeting on the Executive Director's contract? If so, under what statutory authority were the governing board members excluded from the open session meeting?
4. During a special meeting of the CVCHS Governing Board, held on November 26, 2014, did the board hold a closed session regarding termination of a CVCHS employee? If so, did the employee request to have the session held in public pursuant to Government Code section 54957(b)(1)? If so, did the board comply with that request? If not, what was the statutory authority for holding the closed session meeting? At this point, please DO NOT divulge the contents of any communication during the closed session. I am seeking only that information sufficient to determine if the Board acted in accordance with the Brown Act in holding the closed session.
5. Does the CVCHS Governing Board have a Finance Committee? Is the Finance Committee a legislative body for purposes of The Brown Act? I am particularly interested in whether the committee is a legislative body based on subdivision (b) of Government Code Section 54952, including the membership of the committee and whether the committee has continuing subject matter jurisdiction or a schedule fixed by charter, ordinance, resolution, or formal action of the CVCHS Governing Board.
 - a. If the Finance Committee is a legislative body pursuant to Government Code Section 54952(b), are the meetings held by the Finance Committee open to the public?
 - b. If the Finance Committee is a legislative body pursuant to Government Code Section 54952(b), are the meetings held by the Finance Committee "regular" or "special" meetings within the meaning of Government Code sections 54954.2 and 54956, respectively?
 - c. If the Finance Committee is a legislative body pursuant to Government Code Section 54952(b), does the Finance Committee comply with the agenda requirements imposed by Government Code sections 54954.2 or 54956?

Please review the facts surrounding these issues and respond to me in writing by January 16, 2014. Please feel free to ask for direction from your Board or legal counsel to the Board prior to providing a response. I have made no assumptions as to whether or not a violation of the Government Code has occurred. Your response will help me decide what further action on my part, if any, is necessary. If you require more time to respond, please contact me prior to the above date to let me know.

Thank you for your anticipated cooperation in this matter.

Sincerely,

Mark A. Peterson
District Attorney

A handwritten signature in black ink, appearing to read 'Steve Moawad', with a long horizontal line extending to the right.

Steve Moawad
Senior Deputy District Attorney