



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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LEGAL UPDATE

October 7, 2015

**To: Superintendents/Presidents/Chancellors, Member Community
College Districts**

From: Mia N. Robertshaw, Assistant General Counsel *MNR*

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**Subject: California Attorney General Determines that Community College
District Boards of Trustees Cannot Meet in Closed Session for
Negotiations of a Project Labor Agreement
Memo No. 14-2015(CC)**

The Ralph M. Brown Act (Brown Act) generally requires that the meetings of boards of trustees of California community college districts be open and public. (Government Code, sections 54950-54963.) Limited exceptions to this general rule permit boards to meet in closed session.

One of the permitted bases for a closed session meeting is the “labor negotiations exception,” which permits the board of trustees to meet with the board’s “designated representatives regarding the 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.” (Government Code 54957.6.)

On September 18, 2015, California’s Attorney General responded to a legislator’s request for an opinion as to whether the labor negotiations exception of the Brown Act permits the board of trustees of a community college district to meet in closed session with its designated representative to discuss negotiations of a project labor agreement. The Attorney General concluded that the labor negotiations provision of the Brown Act does not apply to project labor agreements. (Opinion No. 14-302.)

Project labor agreements cover construction projects. A community college district that is undertaking a construction project can enter into, or require its contractors to enter into, labor agreements with labor organizations. These project labor agreements set the terms and conditions of employment for those persons who will work on the construction project.



The basis for the Attorney General’s opinion was that the Brown Act provision that permits closed session meetings for labor negotiations applies only to labor negotiations with a district’s employees. Because persons employed under a project labor agreement are not a district’s employees, a district’s board of trustees cannot invoke the Brown Act labor negotiations exception to justify meeting in closed session.

The Attorney General concluded: “. . . the Brown Act’s labor negotiations exception does not permit a community college district’s governing board to meet in closed session with its designated representative to discuss the negotiation of a project labor agreement.” Consequently, the Attorney General concluded that such discussion must be conducted in open session.

The opinions of the California Attorney General are not binding judicial opinions. However, they are a significant source of advice for public entities, and they are accorded “great weight” by the courts. (Thorpe v. Long Beach Community College District, 2000, 83 Cal.App. 4th 655.) If your district uses, or is considering using a project labor agreement, we recommend that you review this new Attorney General Opinion as you outline your negotiations strategies.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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