



McMurchie Law

2130 East Bidwell Street, Suite 2, Folsom, CA 95630 [916]983-8000

DAVID W. McMURCHIE
dcmurchie@mcmurchie.com

VICKI E. HARTIGAN
vhartigan@mcmurchie.com

GARY B. BELL
gbell@mcmurchie.com

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ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

To: Neil McCormick at neilm@csda.net
California Special Districts Association

From: David W. McMurchie at dcmurchie@mcmurchie.com

Re: **Brown Act Issue regarding CSDA Trainings**

Dear Neil:

You previously sent me a notice on January 4th asking whether it was necessary for CSDA to post an agenda for all districts that may participate in a CSDA training pursuant to the requirements of the Brown Act. Although I did respond to you and indicate to you that there was no problem and that you were not required to do such a posting, I have been tardy in providing you a legal analysis of that issue. My analysis follows.

The Brown Act contains specific exemptions in respect to the definition of a "meeting of a legislative body," which as you know constitutes a quorum of the legislative body of any special district or other local agency.

The two principle exceptions which apply in this special scenario are as follows: (1) first, pursuant to Government Code section 54952.2(c)(2) the Brown Act exempts conferences and **similar gatherings** which are **open to the public**, that involve issues of interest to the public or to public agencies of the type represented by the legislative body attending the conference, so long as the majority of the members of that particular legislative body do not discuss among themselves, other than as a part of the scheduled program, any issues of a specific nature which are within the subject matter jurisdiction of that particular legislative body. The conference need not be a conference of public agencies

and could be a conference of other types of organizations so long as the subject of the conference is related to that particular public agency's jurisdiction. For example, it could be a CEQA conference or a training session, and if the subjects covered fall within the subject matter jurisdiction of a special district, then this exemption would apply. You will note that there are two major limitations: first, that the members of the legislative body of a particular public agency, if a majority are in attendance at the conference, may not caucus or discuss among themselves any business that has to do with their particular district. However, those board members may enter into discussions with the rest of the participants on issues affecting their local agency in that public forum so long as the issues are a part of the scheduled program for the conference or training session. The second limitation is that the conference or training must be open to the public although that does not mean that a member of the public needs to be provided with free admission where others are charged a fee.

I think a typical CSDA training session would meet the definition of a "conference and similar gathering" because although it is not technically a conference, training sessions conducted by CSDA are the same types of training sessions that they produce at their conferences so I would argue that such training sessions and programs are "similar gatherings" to conferences. I also think that your extensive advertising of your training programs includes associate members and other non-special district entities which meets the definition of a program which is "open to the public." That is particularly so since your website is a public communication device open to anyone and that website includes your training session information.

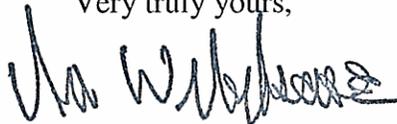
There is a second exemption in the Brown Act at Government Code section 54952.2(c)(3) which exempts from Brown Act requirements the attendance by a majority of a legislative body in an open and publicized meeting held by any other person or organization, other than that particular local agency, on a matter of local interest. In that situation, the legislative body of a particular district or other local agency is not deemed to be conducting a meeting, again, so long as the members in attendance do not discuss among themselves issues of a specific nature related to their particular district or public agency, other than as part of a discussion of the issues involved with respect to the scheduled program. This exception applies not only to conferences, but to any meeting conducted by a private organization, so long as the meeting concerns issues of local interest and is open to the public and publicized in advance. Again, attending members of a special district board may discuss issues related to the purpose of that particular meeting, either public testimony during part of any scheduled program, including a training program, but may not privately caucus among themselves during the training on other issues within the subject matter jurisdiction of their particular agency. As with the conference exemption, I think these "public meetings" are defined broadly enough to include CSDA training sessions and I think your method of publicly advertising those training sessions meets the requirements of the statute that such sessions be open to any member of the public who wishes to pay the applicable fee.

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Therefore, there is no need for individual member districts or any other public agency who sends a majority of their board members to a CSDA training session or to a CSDA conference to agendaize the attendance of their board at that training session or conference in light of these two exemptions in the Brown Act which provide that the attendance of a majority of a public agency's board at such conferences or training sessions does not constitute a "meeting" defined by the Brown Act. Since no "meeting" occurs, there is no need for the posting of an agenda.

Should you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "David W. McMurchie", written in a cursive style.

DAVID W. McMURCHIE

DWM:sjm