



Education Law Update

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CITY COUNCIL MEMBERS CANNOT MEET OUTSIDE BOUNDARIES TO ATTEND TOUR OF WATER FACILITIES UNLESS PUBLIC CAN PARTICIPATE

The California Attorney General recently issued an opinion which examines a not-often-used provision of the Brown Act relating to meetings outside a local agency's territory. Members of a Southern California city council were invited to tour Northern California water facilities owned by a water district of which the city is a member. The tour was set up for invited guests only. Council members were concerned about Brown Act issues if a majority attended the tour. The opinion concludes that with a change in format to allow public participation and proper notice, attendance at the tour is permissible.

The Brown Act defines a "meeting" to include any congregation of a majority of the members of a legislative body such as a school or community college governing board at the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the legislative body. Absent some exception to this rule, a gathering of the majority of a city council to inspect facilities of a water district of which it is a member would be considered a meeting within the meaning of the Brown Act, even though no decision or action by the city council was contemplated. Because the tour was not structured to allow for public participation, the Attorney General concluded it would not be lawful for a majority of the city council to participate in the tour as initially envisioned.

Even if the public were allowed to participate, the opinion notes that the Brown Act normally requires that meetings must normally take place within the boundaries of the agency's territory, since to meet outside the boundaries may place a burden on members of the public who want to participate. There are a number of exceptions to the rule, including one which permits a board to "inspect real or personal property which cannot be conveniently brought within the

boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.”
(Government Code section 54954(b)(2).)

Finally, any meeting within the meaning of the Brown Act must comply with the usual notice and agenda requirements. The opinion concludes that the inspection of water facilities in another part of the state in which the city has an interest will be permissible under the Brown Act, provided that the public is permitted to participate, the tour is held as a noticed and public meeting of the council, and the matters discussed at the meeting are limited to issues related directly to the water facilities being inspected.

Other permissible grounds for meeting outside an agency's boundaries include:

- ▶ To comply with **state or federal law or court order**, or attend a judicial or administrative proceeding to which the local agency is a party.
- ▶ To participate in meetings or discussions of **multi agency significance** so long as any meeting or discussion on this basis takes place within the jurisdiction of one of the participating local agencies and is noticed by all participating agencies.
- ▶ To meet in the **closest meeting facility** if the local agency has **no meeting facility** within its boundaries, or at the agency's principal office that is located outside its boundaries.
- ▶ To meet with **elected or appointed U.S. or California officials** when a local meeting would be impractical, but to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.
- ▶ To meet in or nearby a **facility owned by the agency**, provided the topic of the meeting is limited to items directly related to the facility.
- ▶ To visit the office of the local agency's **legal counsel** for a closed session on pending litigation, when to do so would reduce legal fees or costs.
- ▶ To attend a conference on nonadversarial collective bargaining techniques
- ▶ To **interview** members of the public residing in another district concerning the agency's potential employment of an applicant for the **position of the superintendent** of the district.
- ▶ To **interview a potential employee** from another district.

- ▶ To meet at an alternate location at the direction of the presiding officer or designee where it is unsafe to meet in the place designated in the agenda because of fire, flood, earthquake, or other **emergency**, where notice is provided to local media who have requested it.

Joint powers agencies can also meet within the territory of any one of its member agencies.

If you have any questions concerning this or related issues, do not hesitate to contact our office.

— Grant Herndon

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