



PLACER COUNTY GRAND JURY

Eureka Union School District School Lunch Program Contract

Brown Act Open Meeting Concerns

June 26, 2015

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Summary

The Grand Jury investigated the formation of a food services contract between the Eureka Unified School District (EUSD) and the Roseville Joint Union High School District (RJUHSD) to determine whether the EUSD Board had violated the Brown Act in approving the contract.

The Grand Jury recommends that an individual Board member not be allowed to attend more than one information meeting in a given series of meetings set up by the Superintendent. Further, the Grand Jury is recommending that EUSD Board members and executive district staff obtain additional training regarding the Ralph M. Brown Act (hereinafter, Brown Act or Act; Government Code § 54950, et seq.), so that the district can avoid any violation of the Act and any appearance of violation of the Act.

Background

The Brown Act requires that public agencies make their decisions publicly. The Brown Act sets forth notice and opportunity for public input that legislative bodies of local public agencies must follow with respect to meetings “to hear, discuss, or deliberate on an item within” the agency’s subject matter jurisdiction. Further, the Act defines a meeting as a “congregation of a majority of the members of the” board, commission or council (Gov. Code § 54952.2, subd. a). The Act prohibits “use of direct communication personal intermediaries, or technological devices employed by a majority of the members [] to develop a collective concurrence as to action to be taken ...”. (Gov. Code § 54952.2, subd. b).

In the spring of 2014, EUSD was presented with a closing window of opportunity to secure a new vendor for their K-8 school lunch program for the 2014-15 school year. The 2013-14 vendor was providing school lunches from out of the area, and the School Board was facing a chorus of criticism over the quality and portion size of the lunches. In addition, the EUSD staff found that the school lunch program was taking more resources and staff time to properly manage the distribution of the lunches to the students than the prior lunch program had required.

Before EUSD contracted with the outside food vendor for the 2013-14 school year, the school lunches were furnished by the RJUHSD. The Board had decided not to renew the previous inter-agency agreement after students, parents and Board members complained about the quality of the meals being offered.

The EUSD Board asked district office staff to present options for food service for the 2014-15 school year. The Board was faced with renewing an unpopular school lunch program, having the lunches made on site or entering into an inter-agency agreement with a neighboring school district to provide meals. The prospect of restarting a kitchen at the different schools was ruled out because of cost and time. EUSD staff contacted neighboring districts, including the previous supplier of school lunches, RJUHSD, all of whom declined to bid due to various reasons.

As the deadline neared to either renew the existing contract or find a new vendor, several of the EUSD Board members reached out to Board members of the RJUHSD asking them to encourage the RJUHSD staff to reconsider bidding on the school EUSD lunch program. In mid-April of 2014 EUSD Board members received an email from the Superintendent to arrange what were called 2x2 meetings.

The structure of 2x2 meetings is deliberately set up to avoid violation of the Brown Act. **Specifically, 2x2 meetings consist of two Board members meeting with the district superintendent to informally discuss a range of topics. Restricting the number of Board members present to two is designed to avoid having a majority of the elected Board meeting and discussing official business outside of an official public meeting in violation of the Brown Act.**

The 2x2 meetings are usually held on a quarterly basis with the goal of increasing communication between the Superintendent and the Board members. The usual format of the EUSD 2x2 meetings is to have the Superintendent meet with two Board members, then have a separate meeting with two more Board members and a final meeting with the remaining Board member.

The Grand Jury learned that in a series of 2x2 meetings held in connection with the food services contract for school year 2014-15 the Board failed to follow its normal 2x2 meeting procedures. One of the Board members attended every one of the meetings.

The specific conditions RJUHSD required were that the contract had to be a multi-year contract, there could be no dissenting Board votes and there could be no negative comments made at the EUSD public board meeting at which the EUSD-RJUHS school lunch contract was considered. The inter-agency agreement was put on the May 6, 2014 agenda and was approved with no dissenting votes or negative comments. It was also noted in our interviews that there were two staff members from the RJUHSD in attendance at the Board meeting. The RJUHSD staff members did not offer any public comments and left after the vote was taken. The minutes of the EUSD reflected the attendance of two RJUHSD personnel.

Methodology of Investigation

The Grand Jury conducted several interviews of EUSD district office staff and Board members to determine the facts. One member of the Grand Jury was recused to avoid any conflict of interest and the appearance of bias.

Facts

- The EUSD Board wanted to change the vendor providing school lunches at its school sites.
- Special 2x2 meetings were held by the EUSD Superintendent to brief Board members about the school lunch inter-agency agreement with RJUHSD. These meetings were held before the Board meeting and had a common Board member present at all the meetings.

Findings

The Grand Jury found that:

- F1. The 2x2 meetings were held to disseminate information regarding the RJUHSD conditions of approval of the lunch contract in advance of the EUSD Board meeting.
- F2. EUSD understood that there would be no contract if there were any dissenting Board votes or any negative comments made at the EUSD public board meeting at which the EUSD-RJUHS school lunch contract was considered.
- F3. The presence of a common Board member at all 2x2 briefing meetings between EUSD staff and one other Board member is a violation of the serial meeting provisions of the Brown Act.

Conclusion

Each informational meeting contained only two members of the five-member board. Therefore, there was no meeting as defined in Government Code § 54952.2(a). In other words, there was no majority. The Grand Jury finds that having a common Board member in all of the informational meetings is the type of serial meeting Government Code § 54952.2(b) addresses.

Recommendations

The Grand Jury recommends that:

- R1. Informational 2x2 meetings between EUSD staff and Board of Trustee members should never include a common Board member present at all the meetings.
- R2. The EUSD staff should arrange an annual training seminar on the Brown Act provisions for all Board members and executive staff.

Request for Responses

	<u>Recommendations Requiring Response</u>	<u>Response Due Date</u>
Board of Trustees Eureka Union School District 5455 Eureka Road Granite Bay, CA 95746	R1, R2	September 22, 2015
Ms. Linda Rooney Superintendent Eureka Union School District 5455 Eureka Road Granite Bay, CA 95746	R1, R2	September 22, 2015