Language in CGH Regarding Brown Act Adherence

As of Fall 2021 San Diego Miramar College is implementing a new College Governance Handbook. The Classified Senate provided a recommendation for adoption and implementation. In providing this recommendation and the subsequent vote to approve the College Governance Handbook we are required to adopt changes to our current Senate structure and bylaws. This includes the adoption of Minutes templates, Agenda templates, and a Proxy Form for committee members and elected persons of the Classified Senate.

While not required to adhere to the Brown Act, the San Diego Miramar College Classified Senate has chosen to pursue Brown Act requirements to increase transparency in decision making and discussions. A section of the Governance Handbook has been copied and pasted here for easy reading and access, to clarify confusion surrounding adherence.

The Academic Senate, Classified Senate, Associated Student Government, College Council, and all governance committees that report to these committees are required to follow the Brown Act in order to provide transparency, access and openness to the college community and the public. The most essential aspects of the Brown Act practiced to achieve this are: 1) providing a 72-clock hour advance notification of meetings with appropriate description of items on the meeting agenda; 2) publicly posting the meeting agendas, and 3) publicly posting the meeting minutes in a timely manner.

Effective meetings require well-thought-out agendas, active participation, and a record of the meetings, topics, and outcomes. It is recommended that specific and basic elements of ‘Robert’s Rules of Order’ be used to help conduct effective meetings. Robert’s Rules of Order are guidelines for parliamentary procedure based on the consideration of all members and groups within a committee. These guidelines are used to keep meetings consistent, on topic, and on schedule. Elements of it involve the practice of the proper proposal etiquette, specific steps to follow during debates and motions, and terms to understand and use to ensure fair and civil meetings.

**Best practices for agenda design include the following:**

* Careful agenda preparation in advance, using provided templates (see Appendix B) or others found online and in print, and are Americans with Disabilities Act (ADA)-compliant for accessibility. Remember, agendas are driven by the charge of the committee. Focus on prioritized issues. Items included are prioritized based on the committee charge.
* Items should also be prioritized based on time of occurrence in the academic year. Balance between agenda items and meeting time available. A thoughtful balance between presentation and discussion should be maintained.
* Remember: a one-hour meeting should have no more than two agenda items requiring

active dialogue.

* Discussion content should be framed by well-designed questions. Providing questions for

discussion can invite focused participatory input better than simply framing content by

topic.

* Record key findings and commitments using accessible meeting notes templates. Reserve

time at the end of meetings to collectively summarize action/information items, and what

constituency representatives should take to their groups for discussion and what

information the committee expects back from constituency members.

Language of Note Surrounding Recordings of Meetings

In addition to what is listed in the CGH regarding adherence to the Brown Act, some provisions can be contentious. Particularly surrounding meeting recordings. The following language was compiled by the League of California cities and can provide guidance to the discussion. The Classified Senate bylaws will need to be amended to codify handling of meeting recordings.

For the broader school board meeting, the Brown Act only makes provisions for the possible recording and broadcasting of the meeting. The League of California Cities has summarized the part of the Brown Act found in section 54953.5(a) of the [California Government Code](http://www.dmlp.org/legal-guide/california/open-meetings-laws-california) that pertains to citizen recordings of meetings:

[T]he public is specifically allowed to use audio or video tape recorders or still or motion picture cameras at a meeting to record the proceedings, absent a reasonable finding by the legislative body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.

If a constituent—or the press—records the meeting under this provision, the act goes on to insist that the school board must permit the footage to be broadcast. It is reasonable to presume that anyone in the pubic who takes advantage of this provision would do so to keep the board in line or to catch them in some suspected wrongdoing.

The act does not require the school board itself to make any recordings. It does, however, provide that any recording made at the school board’s discretion would become a matter of public record. Referencing California Government Code section 54953.5(b), the League of California Cities continues: “[a]ny tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the Public Records Act,” adding the curious caveat that the recording nevertheless “may be erased or destroyed 30 days after the taping or recording.”

Writing it all down…. why have meeting minutes?

The Brown Act does not require official minutes of the meeting to be taken or published. But school boards are not off the hook. Several other laws cross with the Brown Act. For example, [Education Code 35145](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=35145.) requires minutes be taken and made available to the public.

35145.

All meetings of the governing board of any school district shall be open to the public and shall be conducted in accordance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code. All actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in violation of this subdivision or Section 35144 is null and void.

*(Amended by Stats. 1987, Ch. 1452, Sec. 196.)*