



Community College Joint Benefits Committee is Not A Legislative Body Subject to the Brown Act

Recently, the California Attorney General concluded that a Joint Labor Management Benefits Committee is not required to comply with the Ralph M. Brown Act because it is not a legislative body as defined by the Brown Act. (___ Ops. Cal. Atty Gen. ___ (Dec. 31, 2009.)) This opinion is important for community college and K-12 school districts because the opinion not only rearticulates the basic rule applicable to district committees, but may also herald a subtle shift in the Attorney General's analysis on the subject.

The Committee was created as a result of a Master Benefits Agreement ("MBA") that was the product of collective bargaining between the District and six of its bargaining units. The MBA provided for representatives of the District and its six bargaining units to participate in the Committee. The Committee functioned to contain costs of the District's health benefits program while maintaining and improving the quality of the benefits available to District employees.

Whether such a committee is subject to the Brown Act is governed by Government Code section 54952. The statute employs a two-part test to determine whether a committee is subject to the Brown Act: (1) whether the governing board created the committee by formal action; and (2) whether the committee has quorum of the governing board members or "continuing" (e.g. permanent) jurisdiction on the subject.

The opinion appeared to concede that the second requirement of the test was met because the Committee had continuing jurisdiction on an important District issue, health benefits. However, the opinion stated that the Committee did not meet the first requirement of the test, because it was not created by board action. The collective bargaining agreement had created the Committee, the board had merely implemented it by ratifying the MBA and appointing District representatives to the Committee. The opinion also referred to the rule that labor negotiations or meet and confer sessions between a public employer and its designated representatives are not subject to the Brown Act. (Government Code section 3549.1)

The result is a substantial benefit to those community college and K-12 school districts. Exempting joint committees on employee health benefits will allow representatives to discuss important health care issues in a more candid setting. It will also provide scheduling flexibility to committee members, who will not be bound by the agenda and notice requirements of the Brown Act.

It should be noted that the opinion is difficult to clearly distinguish from an earlier opinion that determined that Academic Senates *are* subject to the Brown Act. (66 Ops. Cal. Atty. Gen. 252 (July 28, 1983).) Thus, the new opinion may invite Academic Senates to challenge the current validity of the Academic Senate opinion.

If you have any questions regarding this opinion, please do not hesitate to contact one of our five offices.

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