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Yu Ming Charter School Brown Act Refresher

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Education Code 47604.1

New Law on Charter School Transparency

- Makes express law that charter schools must comply with Public Records Act, Brown Act, Political Reform Act, and Government Code 1090 being applicable to charter schools and entities managing/operating charter schools.




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Education Code 47604.1

- Yu Ming Board of Directors, operating a single charter school, must meet within the physical boundaries of Alameda County
- No legal requirement to audio and/or video record all governing board meetings or post recordings on each website. However, if you do record, you must keep for at least 30 days and it is considered a public record.
- Allows an employee of a charter school to be on the charter school board as long as they *abstain from voting on or influencing or attempting to influence another member of the governing body regarding, all matters uniquely affecting that member's employment.*



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Understanding the Brown Act

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Meetings



Brown Act Applies to **Meetings of the Board**

- Basic Definition
 - When any congregation of a majority of the members of the body meet to hear, discuss, deliberate, or take action on any item of Charter School business



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Meetings

Board Committees

Nearly all committees must comply with the Brown Act

Exception:

A Committee that is:


- Advisory (not decision making)
- Composed of only Board members
- Less than a quorum of the Board
- Must not be a standing committee



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Meetings



Serial Meetings

- Examples: Hub or Chain
- Technology may result in meetings at times you might not expect
 - E-mails
 - Text messages
 - Social media
 - Website postings
 - Online forums
 - Telephone calls
 - Faxes

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Meetings

Teleconference Meetings
Six Additional Requirements:

1. Agenda must be posted at all teleconference locations.
2. Each teleconference location must be identified in the notice and agenda of the meeting.



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Meetings

Teleconference Meetings

3. All votes taken must be by roll call.
4. Each teleconference location must be accessible to the public. (ADA-compliance required.)
5. Members of the public must be able to hear and must have the right to address the Board directly from each teleconference location.
6. A quorum of the Board must participate from within the county in which the Charter School is located.

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Governor's Executive Order

A charter school board may hold teleconference meetings without adhering to all of the requirements of the Brown Act. Executive Order N-29-20 allows the following flexibility in teleconference meetings:

- The agenda does not need to provide notice of each teleconference location nor do agendas need to be posted at each location;
- A quorum of board members need not be located in the Charter School jurisdiction; and
- Governing board members may participate in a teleconference meeting from places that are not publicly accessible.

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Governor's Executive Order

The charter school board may take advantage of this additional flexibility in teleconference meetings so long as the school complies with the following:

- The public has access via internet and/or telephone to the Board meeting and can provide public comment in some electronic form.
- The charter school uses its sound discretion and makes reasonable efforts to adhere, as closely as possible, to the other provisions of the Brown Act in order to maximize transparency and provide public access.

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Meetings

Executive Compensation

- Approval of CEO/Executive Director's compensation must occur at a **regular** (not special) meeting
- Govt. Code 54953: Prior to final action, Board must orally report a summary of the recommendation for final action, including the salary, salary schedule, and fringe benefits, during the open meeting where final action will be taken.
- Final action in open session




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Notice Requirements



Notice and Agendas


When?

- Regular meetings – 72 hours notice
- Special meetings – 24 hours notice
- Emergency meetings – 1 hour notice (rare)

Where to Post?

- Physically at a publicly accessible location within the jurisdiction during the entire posting period
- At all teleconference locations, if any
- On the website – homepage (new law – took effect for meetings on or after Jan. 1, 2019)


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Notice Requirements



Govt. Code 54954.2(a)(2): "It is in the public interest to ensure that members of the public can easily and quickly find and access meeting agendas of legislative bodies ... on the Internet homepage of those certain local agencies."

- Applies to meetings on or after Jan. 1, 2019
- Prominent, direct link to agenda on homepage
- If agency uses an "integrated agenda management platform," current agenda must be at the top.
- Agenda must be (1) retrievable, downloadable, indexable, and electronically searchable; (2) platform independent and machine readable; and (3) available to the public free of charge.

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Rights of the Public



Rights to enable access and participation

- Give oral testimony at meeting
 - Addressing disruptive speakers
- Audio record and broadcast
- Limitations on conditions of public attendance
- Non-discriminatory facilities (reasonable accommodations under ADA)
- Copies of agendas and other public writings

Govt. Code 54954.3(b)(2): Must provide 2x the time for public testimony to persons utilizing a translator to ensure equal opportunity.


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Closed Sessions



What Are the Permissible Closed Sessions?

1. Pending/anticipated litigation (conference with legal counsel)
2. Pupil discipline (Education Code)
3. Personnel (appointment, employment, evaluation, discipline, dismissal)
 - Caveat: 24-hour written notice to employee is required if Board will hear complaints and/or charges
4. Real estate negotiations
5. Labor negotiations
6. Public security


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Closed Session



Requirements

- Use "Safe Harbor" agenda language (GC 54954.5)
- Prior to Closed Session:
 - Board Must Make a Public Announcement of Reasons for Closed Session Prior to Closed Session
 - Public Must Have an Opportunity to Comment
- After Closed Session:
 - Board Must Make a Public Report of Action Taken in Closed Session and Vote or Abstention of Every Board Member
- Semi-closed meetings are prohibited
- Confidentiality is required


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Enforcement



Complaints and Challenges

- Notice of Concern
 - Often brought by Charter Authorizer
 - Short turnaround to respond
 - Seek advice from legal counsel on response
- Notice and Demand for Cure or Cease and Desist
 - Can be brought by DA or member of the public
 - Board must cure/respond within 30 days
 - Seek advice from legal counsel on response

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QUESTIONS AND RESPONSES

THANKS FOR ATTENDING TODAY!

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