

**The Brown Act. Is it being taken
seriously by Fresno County school
districts?**



**Fresno County
Civil Grand Jury**

SUMMARY

Citizen complaints regarding the public disclosure of confidential information from closed door school board meetings (a Ralph M. Brown Act violation) were received by the Fresno County Civil Grand Jury. Specifically, information from a closed session of a Fresno Unified School District Board of Education meeting was disclosed to local media and published. The Fresno County Civil Grand Jury conducted interviews of the complainants and school board personnel in Fresno County, resulting in a premise that elected school board members lack necessary training on laws related to the disclosure of confidential information acquired during closed session. California Assembly Bill 1234, implemented in 2006, required that elected officials of governing boards receive training in public service ethics laws every two years. Newly implemented California Assembly Bill 2158 further clarifies the required ethics training for school board members, whether or not the members were compensated or reimbursed for their official duties as elected officials. While several interviewees related that Ralph M. Brown Act violations erode a public's trust in an organization, none revealed a knowledge of other legal ramifications. Based on information collected by the Grand Jury, it seemed that ethics law training, particularly as it pertains to Ralph M. Brown Act violations and the disclosure of confidential information from closed door sessions, should be further emphasized for the elected members of the Fresno Unified School District Board of Education, as well as governing boards of the other 30 school districts in Fresno County.

GLOSSARY

AB - Assembly Bill

Brown Act - Ralph M. Brown Act

FCOE - Fresno County Office of Education

FUSD - Fresno Unified School District

BACKGROUND

The Fresno County Office of Education (FCOE) provides leadership to the 31 school districts ([Districts | Fresno County Superintendent of Schools](https://www.fcoe.org/districts))¹ within the county in addition to institutions of higher education including State Center Community College District and California State University, Fresno. Each of these entities is governed by a publicly elected board and is subject to specific state laws pertaining to the release of confidential information acquired in a closed session of the governing board. Among the Fresno County educational institutions, there are approximately 180 board member positions that are elected every four years. There are other educational institutions within the county, but these may not be governed by the same laws.

Of the 31 Fresno County school districts, Fresno Unified School District (FUSD) educates nearly 70,000 students, approximately 75% of the K-12 students in the county. Minority enrollment in FUSD is approximately 90% and nearly 65% of enrolled students are considered economically disadvantaged. Districtwide, FUSD has a 20:1 reported student:teacher ratio. The district has been functioning without a permanent superintendent since July 2024 and is currently in an active search for a replacement.

The Fresno County Civil Grand Jury (Grand Jury) received a number of complaints from Fresno County citizens expressing concerns about possible violations of the Ralph M. Brown Act (Brown Act) as it relates particularly to releasing FUSD Board of Education closed session confidential information from elected board members to third member parties, (*i.e.*, press sources). In addition, there are other provisions (*e.g.*, open meetings, agenda publication, etc.) which govern the conduct of elected board members as provided in the Brown Act. The Grand Jury, while not a prosecutorial body, was concerned about leaks from confidential closed sessions to third party members in seeming violation of the Brown Act and inquired into the concerns expressed in the received complaints.

¹ <https://www.fcoe.org/districts>

METHODOLOGY

The Grand Jury interviewed numerous school administrators and board members in Fresno County, both former and presently serving. Additionally, superintendents of Fresno County school districts of various sizes and attorneys responsible for documenting training of elected school board members were interviewed. The Grand Jury examined the Strategic Plan of the Office of the Fresno County Superintendent of Schools with emphasis on the state required roles of the County Office and the County Superintendent. The Grand Jury further familiarized themselves with portions of California Assembly Bill (AB) 1234 and AB 2158 relative to ethics laws training and the Brown Act relative to disclosure of confidential information obtained during closed session agenda items of a governing body.

DISCUSSION

Training of FUSD elected school board members has been a previous topic in a 2004/2005 Fresno County Grand Jury report ([Grand Jury Final Report 2004-2005 .doc](#))². The focus of this previous report was to determine whether or not newly elected board members were adequately trained to manage their fiscal responsibilities. The 2004/2005 Grand Jury report listed 21 Findings, some of which mirror the Findings in this current Grand Jury investigation. In particular, it was previously reported by the 2004/2005 Grand Jury that while newly elected board members were offered numerous training sessions (including Brown Act), these trainings were not mandatory. Further, board members interviewed by the 2004/2005 Grand Jury indicated that they did not receive adequate training and information on school district issues. The current Grand Jury takes particular note in the August 2005 response from the FUSD Board of Education to Finding #12, - that “although it will never be possible to achieve perfection in regard to the training and information provided to trustees, there has been considerable progress in this regard in recent months” ([grand-jury-responses-2004-2005_1.pdf](#))³. The current Grand Jury does not adopt these 2004/2005 Grand Jury Findings as their own, but merely recounts the

² https://www.fresno.courts.ca.gov/system/files/grand-jury-final-report-2004-2005_1.pdf

³ https://www.fresno.courts.ca.gov/system/files/grand-jury-responses-2004-2005_1.pdf

above report and response as examples to display the continuing nature of training deficits among Fresno County elected school board officials.

California AB 1234 ([Bill Text - AB-1234 Local agencies: compensation and ethics.](#))⁴, effective January 1, 2006, provides details and directions on compensation of local agency governing boards for their attendance at meetings, training sessions, and performance of official duties. Further, AB 1234 mandates (among other things) that local agency officials who receive compensation, salary, stipends, or expense reimbursement, are required to receive training in public service ethics laws and principles every two years. Newly implemented (January 1, 2025) California AB 2158 ([Bill Text - AB-2158 Local educational agencies: ethics training.](#))⁵ clarifies that local agency officials include all elected school board members who perform duties either with or without compensation, salary, stipend or expense reimbursement. Ethics law training (also known as ‘AB 1234 training’) is now required on a two-year basis by local agency officials (e.g. school board members) and must be completed by December 31, 2025 by all school board members, unless their term of office ends before January 1, 2026. AB 1234 training includes, but is not limited to, the following:

1. Laws relating to personal financial gain, prohibition of bribery and conflict-of-interest laws.
2. Laws relating to gift and travel restrictions, prohibitions against the use of public resources for personal purposes, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation.
3. Government transparency laws relating to financial interest disclosures and open government laws.
4. Laws relating to fair processes including competitive bidding requirements for public contracts, due process requirements, common law bias prohibitions, and nepotism.

The third item above includes training in Brown Act specifics ([The Brown Act: Open Meetings For Legislative Bodies \(2003\)](#))⁶, directing the elected board members in their responsibilities to

⁴ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200520060AB1234

⁵ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2158

⁶ <https://oag.ca.gov/system/files/media/the-brown-act.pdf>

ensure confidentiality of information acquired in closed session and the results/impact of violations of that obligation.

AB 1234 also clarifies exactly what qualifies as a training session and includes specifics for certification of board members who enroll in and successfully complete the required training. The Bill mandates that each local agency official shall receive at least two hours of training in general ethics principles and laws relevant to their public service every two years. The Bill requires that if a local entity develops a training curriculum to satisfy AB 1234 obligations, that the Fair Political Practices Commission and the Attorney General shall be consulted on the sufficiency and accuracy of any proposed course content. Relative to this consultation requirement, the Office of the Attorney General has issued a document to assist local agencies who wish to develop a program for AB 1234 training ([Ethics Training for Local Government Officials](#))⁷. AB 1234 training programs must include the core content topics identified in California Code of Regulations Section 18371 ([§ 18371. Local Agency Ethics Training](#))⁸. These offered training courses may be taken at home, in-person or online. Further, all providers of approved training courses shall provide participants with proof of participation to meet AB 1234 requirements. Lastly, local entities shall provide information on training available to meet AB 1234 requirements to its local officials at least once annually.

During interviews with past and present administrators and board members in Fresno County, superintendents of Fresno County school districts, and attorneys responsible for documenting completed trainings of elected school board members, it became evident to the Grand Jury that there was no standard checklist provided to newly elected school board members to identify the mandated trainings and responsibilities required of the position. Further, there was no clear consensus among interviewees on what constituted required training as a newly elected school board member, and the consequences of Brown Act violations were similarly varied among those interviewed. However, with the recent (January 1, 2025) implementation of AB 2158, Fresno County elected school board members should become more knowledgeable about the Brown Act and other pertinent ethics laws due to the required biennial training requirements.

⁷ https://oag.ca.gov/sites/all/files/agweb/pdfs/ethics/eth_loc_guide_final.pdf

⁸ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter3/18371.pdf>

The 2023 - 2026 Strategic Plan for Fresno County Superintendent of Schools provides verbiage on the ‘State Required Roles of a County Superintendent.’ The Strategic Plan identifies the Superintendent as being responsible for overseeing the operations of the county office of education and providing leadership to local school districts. Further, this includes ‘implementing state education policies, *ensuring compliance with legal and regulatory requirements* and promoting educational excellence’ ([2023 Strategic Plan 2023-08-24.pdf](#))⁹. Indeed, the Grand Jury has recently received notice from the Office of the Fresno County Superintendent of Schools of AB 2158 awareness, and desire to assist in compliance throughout the many school districts of Fresno County. And while it is the responsibility of individual elected school boards to provide AB 1234 training to their board members, the Grand Jury has noted the proactive role being taken by the Superintendent to assist in the successful completion of state-mandated training.

Violation of the Brown Act erodes public trust in the affected public entity. Its violation demonstrates disrespect for established civil rules of order and taints affected governing boards, all in the public eye. For those found in violation, punishment can include: 1) injunctive relief to prevent disclosure; 2) disciplinary action against an employee; and/or 3) referral to a grand jury ([California Code, GOV 54963.](#))¹⁰. This Grand Jury learned that interviewees from diverse Fresno County elected school boards were all receptive to a more organized and uniform onboarding process for newly elected school board members that would ensure compliance with existing legislation. It is this Grand Jury’s desire that newly-mandated ethics laws training schedules will be monitored by Fresno County school districts and will have a positive effect on reducing reported Brown Act violations. Further, the Grand Jury hopes that documentation of successful training accomplishments for all Fresno County school board members will become publicly available.

⁹ https://fcoe.org/files/2023-08/2023_Strategic_Plan_2023-08-24.pdf

¹⁰ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=54963.&lawCode=GOV

FINDINGS

F1. Presently serving elected school board members were uncertain whether Brown Act/Ethics training was a requirement as a board member.

F2. Presently serving elected school board members were unaware of the consequences which could arise from violating the Brown Act.

F3. Brown Act training is among the core content topics required in any curriculum to satisfy AB 1234 training requirements.

F4. As per requirements of AB 2158, local school districts are responsible to provide an AB 1234 training curriculum to the elected school board members that includes all core content topics identified in Fair Political Practices Commission Regulation 18371.

F5. Within Fresno County, presently serving elected school board members were receptive to developing an onboarding checklist to assist in identifying when state-mandated training requirements are completed by newly elected board members.

RECOMMENDATIONS

R1. The Fresno County Superintendent of Schools should provide no later than September 1, 2025, a courtesy notification to the governing boards of all Fresno County school districts to indicate the following:

- 1) AB 2158 mandates two hours of public service ethics laws training every two years for all elected school board members.
- 2) All elected school board members must complete AB 1234 training by December 31, 2025 unless their term of office ends before January 1, 2026.
- 3) That records pertaining to AB 1234 training of elected school board members are public records, and subject to disclosure under the California Public Records Act.
(F1 - F4)

R2. The Fresno Unified School District Board of Education should ensure no later than September 31, 2025, that curricula developed or utilized to comply with AB 1234 training for their elected school board members contain all the core content topics identified in Fair Political Practices Commission Regulation 18371. (F3, F4)

R3. The Fresno County Superintendent of Schools should provide no later than September 1, 2025, a courtesy notification advocating that Fresno County school districts each develop and implement an onboarding checklist for newly elected board members to identify and monitor state-mandated training requirements. (F5)

REQUIRED RESPONSES

Pursuant to California Penal Code section 933 and 933.05, each entity or individual named below must respond to the enumerated Findings and Recommendations within specific statutory guidelines.

Responses to Findings shall be either:

- The respondent agrees with the finding; or
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action; or
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation; or
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of the publication of the Grand Jury report; or
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

Required response within 60 days:

Fresno County Superintendent of Schools (F1 - F5), (R1, R3)

Required response within 90 days:

Fresno Unified School District Board of Education (F1 - F5), (R2)

INVITED RESPONSES

(none)

Responses are to be sent to:

The Honorable Judge Houry A. Sanderson
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, CA 93724-0002

WORKS CITED

Anon. 2003. California State Publication: 'The Brown Act. Open Meetings for Legislative Bodies.' California Attorney General. [The Brown Act: Open Meetings For Legislative Bodies \(2003\)](https://oag.ca.gov/system/files/media/the-brown-act.pdf) <https://oag.ca.gov/system/files/media/the-brown-act.pdf>. Intro Brown Act.pdf.

Assembly Bill 1234 (2005 - 2006). Local agencies: compensation and ethics. [Bill Text - AB-1234 Local agencies: compensation and ethics.](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=200520060AB1234) https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=200520060AB1234. 7 October 2005.

Assembly Bill 2158 (2021- 2022). Local educational agencies: ethics training. [Bill Text - AB-2158 Local educational agencies: ethics training.](#)

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2158

Bill Lockyer, Attorney General. Ethics Training for Local Government Officials. [Ethics Training for Local Government Officials.](#)

https://oag.ca.gov/sites/all/files/agweb/pdfs/ethics/eth_loc_guide_final.pdf.

California Government Code Section 54963. [California Code, GOV 54963.](#)

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=54963.&lawCode=GOV.

Fresno County Grand Jury 2004 - 2005 Final Report. Fresno Unified School District Board of Education. [Grand Jury Final Report 2004-2005 .doc.](#)

https://www.fresno.courts.ca.gov/system/files/grand-jury-final-report-2004-2005_1.pdf. pp. 16 - 22.

Fresno County Superintendent of Schools Strategic Plan 2023 - 2026.

[2023 Strategic Plan 2023-08-24.pdf.](#)

https://fcoe.org/files/2023-08/2023_Strategic_Plan_2023-08-24.pdf. Released 24 August 2023.

Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations. [§ 18371. Local Agency Ethics Training.](#)

[https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter 3/18371.pdf](https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter%203/18371.pdf)

Responses to the 2004 - 2005 Fresno County Grand Jury. Fresno Unified School District Board of Education. [Grand-jury-responses-2004-2005_1.pdf.](#)

https://www.fresno.courts.ca.gov/system/files/grand-jury-responses-2004-2005_1.pdf. pp. 5 - 8.

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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(<https://www.fresno.courts.ca.gov/divisions/jury-service/civil-grand-jury>)