

Mr. Scott Lessard, Board President
Members of the TVLC BOD
Tri-Valley Learning Corporation

May 19, 2016

Dear TVLC BOD,

This letter is to call your attention to what I believe was a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of the action taken by Tri-Valley Learning Corporation.

The potential nature of the violation is as follows: In its meeting of April 16, 2015, the TVLC BOD took action to sign the MOU between TVLC and CPA, also known as TVLC Resolution Number 2015-041615(A). Please see attached document for reference.

The action taken does not appear to be in compliance with the Brown Act because it seemed to occur as the culmination of a discussion in closed session of a matter which the Act does not permit to be discussed in closed session. The minutes of April 16, 2015 read that no action was taken on closed session items (see attached). Additionally, there was no adequate notice to the public on the posted agenda for the meeting that the matter acted upon would be discussed, and there was no finding of fact made by the TVLC BOD that urgent action was necessary on a matter unforeseen at the time the agenda was posted.

In the event it appears to you that the conduct of the TVLC BOD specified herein did not amount to the taking of action, I call your attention to Section 54952.6, which defines “action taken” for the purposes of the Act expansively, i.e. as “a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.”

As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a “brief description” of each item to be discussed or acted upon, and also creates a legal remedy for illegally taken actions—namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

Pursuant to that provision (Government Code Section 54960.1), I demand that the TVLC BOD cure and correct the alleged illegally taken action as follows: revoke TVLC Resolution Number 2015-041615(A) and provide the public the awareness and opportunity the comment of which it was deprived, e.g. the formal and explicit withdrawal from any commitment made, coupled with a disclosure at a subsequent meeting of why individual members of the legislative body took the positions — by vote or otherwise — that they did, accompanied by the full opportunity for informed comment by members of the public at the same meeting, notice of which is properly included on the posted agenda. When you address this issue publicly, copies of the document(s) must be made available to the public.

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would also ask the court to order you to pay my court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Sincerely,

Katherine Kozioziemski