



## Superintendent disputes allegation of Brown Act violation

A message from Dr. Brian Sarvis, Superintendent, Santa Barbara School Districts  
August 13, 2009 - For Immediate Distribution

A false allegation of a Brown Act violation was reported in today's Santa Barbara News-Press article concerning the August 11, 2009, board of education meeting. The claim, which came from a member of the public, asserted that there had been a last minute agenda addition that violated the public notice requirement in the state's open meeting law. The claim is wrong and does a disservice to the Santa Barbara School Districts' Board of Education's commitment to full compliance with the Brown Act. In fact, there was no addition to the agenda. The agenda item in question, along with an explanatory staff memorandum, was posted and distributed last Friday in accordance with all legal requirements. It read:

**E.1 Acceptance of the Fiscal Crisis & Management Assistance Team (FCMAT) Final Report on Special Education and Approval of Development of an Action Plan to Address FCMAT Recommendations, Including Approval of Recommended Additional Special Education Expenses\***  
7:35 p.m. / 80 mins.

*Resource person: Robin Sawaske, Associate Superintendent*

*Recommendation: It is recommended that the board of education accept the Fiscal Crisis & Management Assistance Team (FCMAT) Final Report on Special Education and approve development of an action plan to address FCMAT recommendations, including approval of recommended additional special education expenses.*

*Fiscal impact: Approximate cost over two years: \$324,000*

*Funding source: Federal American Recovery and Reinvestment Act*

The agenda item did not change, nor was an additional agenda item added. Early Tuesday morning on the day of the meeting, additional material relating to this item was emailed to board members, posted on the district's web site, and made available in the district office lobby. Additionally, hard copies were available to all persons who attended the meeting. The distribution of additional materials before a meeting is a common and necessary occurrence in many instances and the practice is explicitly authorized by the Brown Act. Government Code section 54957.5 [provided at the end of this article] states that if a writing relating to an agenda item is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection at the time the writing is distributed to the members of the body and also may be posted on the local agency's Internet Web site. The manner in which the additional material in this case was distributed and made available strictly complied with all legal requirements.

The additional material, described by the press as a "monstrous attachment," consisted of a 21-page document, titled "FCMAT Recommendations-Santa Barbara School Districts." It listed all of the previously released and well-publicized recommendations contained in the FCMAT special education report, reorganized into categories. Blank spaces were provided with each FCMAT recommendation to prompt a future dialogue among community members, board members and staff about establishing priorities, timeline, cost, etc. The attachment was intended as a template for future use by all stakeholders in working through the many FCMAT recommendations. It was not a new plan, did not

Adams Elementary School	McKinley Elementary School	Roosevelt Elementary School	Goleta Valley Junior High School	Dos Pueblos High School
Cesar Chavez Charter School	Monroe Elementary School	Santa Barbara Charter School	La Colina Junior High School	La Cuesta Continuation High School
Cleveland Elementary School	Open Alternative School	Santa Barbara Community Academy	La Cumbre Junior High School	San Marcos High School
Franklin Elementary School	Peabody Charter School	Washington Elementary School	Santa Barbara Junior High School	Santa Barbara High School
Harding Elementary School				Home School Santa Barbara

contain any new recommendations and added nothing of substance to the existing body of information available in the FCMAT report.

The furor over release of such an innocuous document creates an inaccurate public perception and undermines all the positive things that are happening in special education. A strong and experienced leader, Interim Special Education Administrator Dr. Caryl Miller, has begun the work in earnest of bringing all stakeholders together to grapple with the lengthy list of FCMAT recommendations in an inclusive, transparent manner that has the board, staff, and the community working together to solve past issues and create an environment of trust and respect. This is not an easy task as exemplified by Tuesday night's board discussion about how to best get started on effectively and meaningfully incorporating parent input without delaying needed administrative reorganization.

The board's robust discussion of special education issues on Tuesday night was healthy and positive. To cast what occurred as divisive and negative misses the mark. The agenda item was intended to allow board members to have an active dialogue about the tough issues needing to be addressed and how they should best be tackled. That is exactly what occurred and I expect that there will be much more of the same in coming weeks. The decision-making process is enhanced when board members approach problems from different perspectives and express different viewpoints. Every member of the board of education is fully engaged and committed to making needed improvements in special education, working in conjunction with community members and staff.

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### **California Government Code § 54957.5. Agendas and other writings as public records**

**(a)** Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

**(b) (1)** If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

**(2)** A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

**(3)** This subdivision shall become operative on July 1, 2008.

**(c)** Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency

or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

**(d)** Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

**(e)** This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.