



Northern
California

May 1, 2025

Oakland Unified School District Board of Education
1011 Union Street #940
Oakland, CA 94607-2236
boe@ousd.org

Via Electronic Mail Only

**Re: Failure to Publicly Report Action Taken in Closed Session as Required by
the Ralph M. Brown Act**

Dear Oakland Unified School District Board of Education:

We write on behalf of the American Civil Liberties Union of Northern California to express our concern regarding recent reports that the Oakland Unified School District (“District”) Board of Education (“Board”) took action during an April 9, 2025 closed session that affected the employment status of Superintendent Kyla Johnson-Trammell. That action should have been publicly reported under the Ralph M. Brown Act (“Brown Act” or “Act”).¹

The Board, after a closed session on April 23, reported that it had voted 4-3 to “approve a voluntary separation agreement” that would effectively end Superintendent Johnson-Trammell’s tenure as of July 1 of this year. But media reports suggest that the Board also took actions concerning the Superintendent’s employment status during prior closed sessions that should have also been reported to the public. Board actions on matters of public importance—such as the termination of a Superintendent—should not be held in secret or flow from backroom deals. The public deserves to be heard, and the Brown Act demands more.

Closed Session Board Meetings

On April 9, 2025, the Board met during a regularly scheduled meeting.² Its closed session agenda listed item D-8 (25-0943) “Public Employment/Discipline/Dismissal/Release.”³ The agenda did not specify which employee’s position was under discussion, but media reports and statements by Board members reveal that the discussion concerned Superintendent Johnson-Trammell’s employment contract.⁴ In her report to the public following the closed session,

¹ Gov’t Code §§ 54950 *et seq.*

² Oakland Unified School District Board of Education, April 9, 2025 Regular Meeting Agenda, <https://ousd.legistar.com/View.ashx?M=A&ID=1289729&GUID=772A6303-E044-4C3B-AF79-FD1B954AE79D>.

³ *Id.*

⁴ See, e.g., Ashley McBride, *Oakland school board is reportedly considering ousting superintendent*, OAKLANDSIDE (Apr. 8, 2025, 6:37 PM), <https://oaklandside.org/2025/04/08/oakland-school-board-is-reportedly-considering-ousting-superintendent/>.

Board President Jennifer Brouhard stated that “the board took no final action” on this item.⁵ District 4 Director Mike Hutchinson, however, contradicted Brouhard’s report, publicly acknowledging that the Board did, in fact, take action on a change to Superintendent Johnson-Trammell’s transition plan.⁶ As explained below, if the Board did indeed agree to take specific action to alter the tenure and transition of the Superintendent while avoiding public disclosure of that decision, its actions violated the Brown Act.

On April 23, 2025, the Board again met in a closed session to discuss Superintendent Johnson-Trammell’s employment contract.⁷ Following that closed session, the Board announced its 4-3 vote to “approve a voluntary separation agreement” with the Superintendent.⁸

Only the Board members know exactly what occurred in closed session. But reporting on the issue strongly suggests that on April 9, the Board reached the following decisions: 1) to terminate the Superintendent’s tenure early; 2) to begin searching for someone who could replace her; and 3) to negotiate with her a formal separation agreement. While a formal vote as to the terms of the separation was not taken until April 23, it seems clear that, by that date, the Board had already taken several steps in furtherance of the separation plan it had generated behind closed doors.

The Ralph M. Brown Act

As you are aware, the Act mandates local legislative bodies to conduct the public’s business openly. Gov’t. Code § 54950 *et seq.* It permits the Board to hold closed sessions, but only in limited circumstances. *Los Angeles Times Communications LLC v. Los Angeles Cnty. Bd. of Supervisors*, 112 Cal. App. 4th 1313, 1317 (2003) (“[w]ith few exceptions, the Ralph M. Brown Act obligates government agencies to meet and act in public”). One such circumstance is to consider the appointment, evaluation, discipline, or dismissal of a public employee. Gov’t Code § 54957(b)(1). But this exception is narrow and should be so construed. *Fischer v. Los Angeles Unified School Dist.*, 70 Cal. App. 4th 87, 96 (1999); *see also* Cal. Const. art. I, § 3(b)(2).

When the Board uses this closed session exception, it must “publicly report” any “[a]ction taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session” and “the vote or abstention on that action of every member present” “at the public meeting during which the closed session is held.” Gov’t Code §

⁵ Oakland Unified School District Board of Education April 9, 2025 Regular Meeting, at 45:05 (Apr. 9, 2025), https://ousd.granicus.com/player/clip/2705?view_id=4&redirect=true; *see also* Ashley McBride, *Did Oakland’s school board fire the superintendent? After closed meeting, its unclear*, OAKLANDSIDE (Apr. 10, 2025, 3:32 PM), <https://oaklandside.org/2025/04/10/did-oaklands-school-board-fire-the-superintendent-after-closed-meeting-its-unclear/>.

⁶ Oakland Unified School District Board of Education April 9, 2025 Regular Meeting, at 2:23.02 (Apr. 9, 2025), https://ousd.granicus.com/player/clip/2705?view_id=4&redirect=true.

⁷ Oakland Unified School District Board of Education, April 23, 2025 Regular Meeting Agenda, <https://ousd.legistar.com/View.ashx?M=A&ID=1294575&GUID=18F6E7B8-52C8-41FE-846F-157417793D28>.

⁸ Oakland Unified School District Board of Education April 23, 2025 Regular Meeting, at 22:02 (Apr. 23, 2025), https://ousd.granicus.com/player/clip/2714?view_id=4&redirect=true; *see also* Jill Tucker, *Union-backed Oakland school board majority ousts homegrown superintendent*, San Francisco Chronicle (Apr. 24, 2025, 1:04 PM), <https://www.sfchronicle.com/bayarea/article/union-backed-oakland-school-board-majority-ousts-20289400.php>.

54957.1(a)(5) (emphasis added). Notably, the Act broadly defines “action taken” to include not only a formal vote but also a “collective decision,” “commitment,” or “promise” made by a majority of the Board. Gov’t Code § 54952.6. Without this broad definition, public bodies could easily avoid the disclosure requirements by collectively making decisions but stopping short of a formal vote. *Int’l Longshoremen’s & Warehousemen’s Union v. Los Angeles Exp. Terminal, Inc.*, 69 Cal. App. 4th 287, 294 (1999) (“[A]s a remedial statute, the Brown Act should be construed liberally in favor of openness so as to accomplish its purpose and suppress the mischief at which it is directed.”).

If, as has been reported, the Board collectively reached several decisions in its April 9 closed session regarding the Superintendent’s employment status, it was required to report those decisions out to the public as “action[s] taken.” The Board’s failure to do so, and its apparent attempt to obfuscate the contents of its closed-session meeting, violates the letter and spirit of the law.

Decisions regarding District leadership—particularly those concerning the Superintendent—are of vital public importance. Such decisions should not be kept in secret. The failure to disclose action taken in closed session undermines public confidence and may sow chaos if the Board’s actions are ultimately nullified.

Conclusion

We urge the Board to avoid unfounded or overbroad reliance on the closed session exceptions. The law commands officials to conduct their deliberations openly because Californians, “in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.” Gov’t Code § 54950. Any future discussions about District leadership must be conducted in compliance with the letter and spirit of the Brown Act.

Indeed, at the April 9 Board meeting, one of the District’s own students explained the erosion that will continue if the Board does not change course: “I am [one of] the only teenagers in the room not because I’m the only student who cares but because there has been no meaningful work being done to inform us, let alone involve us, in decisions being made about us. That is not just disappointing but [also] unjust. When decisions are made without transparency, without outreach, and without equity, students are not just excluded, they are silenced. When representation is claimed without action, it becomes performative.”⁹

Governance shrouded in secrecy is incompatible with democratic principles. The public is not an obstacle to be circumvented, but a vital partner in shaping public education.

⁹ Oakland Unified School District Board of Education April 9, 2025 Regular Meeting, at 1:01:42 (Apr. 9, 2025), https://ousd.granicus.com/player/clip/2705?view_id=4&redirect=true.



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Sincerely,

A handwritten signature in blue ink, appearing to read "Shaila".

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A handwritten signature in blue ink, appearing to read "Angélica Salceda".

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