

# STUDENT SUCCESS PROGRAMS

DBA – AUDEO CHARTER SCHOOL · THE CHARTER SCHOOL OF SAN DIEGO

(A California Non-Profit Public Benefit Corporation)

*Len Hering RADM, USN (ret) – Chairman,*

*Scott Barton – Member, David Crean – Member, Jane Gawronski – Member, Eric Schweinfurter - Member*

## SPECIAL BOARD WORKSHOP

**Wednesday, November 4, 2020, 8:30 AM**

**Via Video Conference**

Access to the live video conference will be accessible prior to the start of the meeting at

CSSD: <https://charterschool-sandiego.net/board-governance/>

Audeo: <https://www.audeocharterschool.net/board-of-directors/>

This agenda contains a brief, general description of each item to be considered.

Except as otherwise provided by law, no action shall be taken on any item not appearing in the following agenda.

### 1.0 OPEN SESSION

- 1.1 Call to Order
- 1.2 Roll Call
- 1.3 Establishment of Quorum
- 1.4 Pledge of Allegiance
- 1.5 Approval of Agenda *P.1*

### 2.0 PUBLIC COMMENT

If you would like to participate in public comment, please complete a speaker card and submit it to Staff. Public comment for items of interest to the public and within the scope of Student Success Programs Board (non-agenda) shall be no longer than two (2) minutes. Public comment for agenda items shall be no longer than three (3) minutes. Speakers may not yield their time. In accordance with the Brown Act, no discussion or action may occur at this time but it is the Board's prerogative to respond or give direction to staff. All public comment will be heard at this point in the agenda as ordered below. Each agenda item being commented on will have a maximum of 20 minutes allotted and each non-agenda item will have a maximum of 10 minutes allotted. If necessary, the Board Chair may equivalently decrease the time for each speaker in order to stay within the allotted maximum.

- 2.1 Non-Agenda Public Comment
- 2.2 Agenda Public Comment

### 3.0 BOARD WORKSHOP

- 3.1 Brown Act Training
  - 3.1.1 Wayne Strumpfer from the Young, Minney & Corr law firm will provide training to the Board regarding the Brown Act, compliance with SB 126, and the Governor's executive order N-29-20 *P. 2-13*

### 4.0 ADJOURNMENT

**Next Regular Board Meeting: February 17, 2021**

Meeting Agenda available at:

[www.charterschool-sandiego.net](http://www.charterschool-sandiego.net), [www.audeocharterschool.net](http://www.audeocharterschool.net)

**Accommodation** -- Student Success Programs, Inc. (School's), does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. Angela Neri, has been designated to receive requests for disability-related modifications or accommodations in order to enable individuals with disabilities to participate in School's open and public meetings. Please notify Angela Neri at (858) 678-2020 twenty-four (24) hours or more prior to disability accommodations being needed in order to participate in the meeting. Translation services are available by notifying Angela Neri at (858) 678-2045 twenty-four (24) hours or more prior to the board meeting. In compliance with Government Code Section 54957.5, non-exempt writings that are distributed to a majority or all of the board in advance of a meeting may be viewed at 10170 Huennekens Street, San Diego, CA 92121; or at the scheduled meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Angela Neri (858) 678 -2020.

*Certification of Posting*

*I, Jackie Robertson, hereby certify that I posted this agenda on the Audeo, CSSD webpage on November 3, 2020.*



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**EXPERT CHARTER SCHOOL**  
**LEGAL SERVICES**

# ***Audeo/SSP/Mirus***

## **Brown Act and Conflicts of Interest Law Workshop**

**November 4, 2020**

Presented by:

Wayne K. Strumpfer, Esq.

[wstrumpfer@mycharterlaw.com](mailto:wstrumpfer@mycharterlaw.com)

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SACRAMENTO ■ LOS ANGELES ■ SAN DIEGO ■ WALNUT CREEK

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## ATTORNEY BIOGRAPHY



### WAYNE K. STRUMPFER

[WSTRUMPFER@MYCHARTERLAW.COM](mailto:WSTRUMPFER@MYCHARTERLAW.COM)

916.646.1400 EXT. 266

SACRAMENTO OFFICE

Wayne brings a distinguished legal career in public service to Young, Minney & Corr, LLP (“YMC”), having served as the Executive Director of the California Fair Political Practices Commission (“FPPC”), a Deputy Attorney General specializing in public corruption at the California Department of Justice, the Commissioner of the California Department of Corporations, and, immediately prior to joining YMC, Wayne was Chief Counsel for the California State Auditor.

Wayne is also a seasoned appellate advocate having argued several cases before the California Courts of Appeal and in Federal District Court. Wayne also

served as lead counsel in over 25 jury trials in Superior Court, including the prosecution of a sitting Municipal Court judge.

Wayne was also a member of the Governor's Cabinet while serving as the Executive Director at the Office of Criminal Justice Planning, and served as the Chief Counsel and Legislative Director at the Victim Compensation and Government Claims Board.

Wayne has specialized in conflict of interest and other transparency in government laws, employment law, and grand jury investigations regarding public corruption. He has advised California State Boards and Commissions regarding Open Meeting law, governance, ethics, and policy development. As Chief Counsel for the California State Auditor, Wayne provided legal and policy advice to the State Auditor, the Legislature, and audit staff. He also oversaw the investigations unit that reviewed Whistleblower Protection Act complaints and findings of improper governmental activities.

Wayne has been a guest lecturer at the U.C. Berkeley School of Law, Boalt Hall, and has assisted with the moot court and mock trial programs at U.C. Davis School of Law, King Hall. During the last three years, Wayne has also taught and coached High School Mock Trial.

Wayne received his Bachelor of Arts in Social Science from California State University, Sacramento. He earned a Juris Doctor from the University of Pacific, McGeorge School of Law graduating with distinction and is a member of the Traynor Honor Society.




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**Audeo/SSP/Mirus  
Brown Act & Conflicts of  
Interest Law Workshop**

Presented by:  
Wayne K. Strumpfer  
Young, Minney & Corr, LLP  
655 University Ave., Suite 150  
Sacramento, CA 95825  
(916) 646-1400  
wstrumpfer@mycharterlaw.com  
www.mycharterlaw.com

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**SB 126 and the new  
Education Code  
Section 47604.1**

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**Education Code 47604.1**



**Charter School Transparency Law  
Effective January 1, 2020**

- 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** 

**Location for charter school board meetings:**  
Single charter school and multiple charter schools in the same county: shall meet within the boundaries of the county in which the charter school(s) are located.  
One nonclassroom-based charter school that does not have a facility or operates one or more resource centers shall meet within the boundaries of the county in which the greatest number of pupils who are enrolled in that charter school reside.

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**Education Code 47604.1** 

Board that manages two or more charter schools that are not located in the same county shall meet within the physical boundaries of the county in which the greatest number of pupils enrolled in those charter schools reside.

These boards shall audio record, video record, or both, all the governing board meetings and post the recordings on each charter school's internet website.

Boards operating school(s) with more than a single site or resource center shall establish a two-way teleconference location at each school site and each resource center.

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**Education Code 47604.1** 

- 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.*
- *Still concerned about having employees on the Board....*

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# Understanding the Brown Act

**Understanding the Brown Act**

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## Purpose of The Brown Act

**What Is the Purpose of the Brown Act?**

- To Foster Broad Public Access



"... The people of this State do not yield their sovereignty to the agencies which serve them. The people, 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. The people insist on remaining informed so that they may retain control over the instruments they have created."

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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



- A Majority of the Board Can Attend:
  - Other Body's Public Meeting
  - Public Conferences of General Interest
  - Purely Social or Ceremonial Gatherings
- So Long as Charter School Business is Not Discussed

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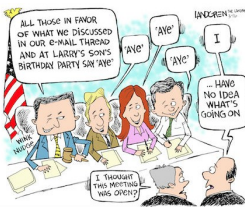
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## Meetings




### Serial Meetings

- Serial Meetings Are Prohibited
  - Majority of Board members
  - Engaging in a series of communications
  - Outside Board meeting
  - Through direct communications or intermediaries or technology
  - To discuss, deliberate, or take action on any item of business (including relaying comments or position of other Board members)



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## Meetings

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**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



**Serial Meetings**

- Limit on One-Way Communications

While an employee or official may engage in separate conversations or communications with other members of the Board in order to answer questions or provide information regarding a matter of Charter School business, that person may not communicate to members of the Board the comments or position of any other member or members of the Board.

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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

General Rule: The agenda shall be posted properly in advance of a meeting and must include a brief description of items to be transacted or discussed. With a few exceptions, if an item is not on the agenda, the Board cannot discuss it.

Contents

- Brief description = usually not more than 20 words
- How to request disability-related accommodation
- Location for inspection of docs distributed to Board

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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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## Notice Requirements



### Exceptions

1. Upon a determination by a majority vote of the Board that an "emergency situation" exists (54956.5)
2. Upon a determination by a 2/3 vote of the Board or a unanimous vote of those present if less than 2/3 of the members are present that:
  - There is a need to take immediate action; and
  - The need for action came to the attention of the "agency" (i.e. entire Charter School) after the agenda was posted.

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## Rights of the Public



### Rights to enable access and participation

- Give oral testimony at meeting
  - Time limits
  - Addressing disruptive speakers
  - Virtual meetings and best practices (stay in control of your meeting!)
- Audio record and broadcast
- Limitations on conditions of public attendance
- Non-discriminatory facilities (reasonable accommodations under ADA)
- Copies of agendas and other public writings

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**Public Comment**

- Non-agenda items: Board members cannot enter into substantive discussions or take action on a public comment about an item that is not on the agenda. A Board member can ask a clarifying question or ask that the item be placed on the next agenda.
- Agenda items: Interaction, discussion, and substantive questions are okay because there has been notice for the subject matter.

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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
- Attendance only for necessary personnel
- 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!**

SACRAMENTO OFFICE: 655 UNIVERSITY AVENUE SUITE 150 SACRAMENTO, CA 95825  
 LOS ANGELES OFFICE: 5200 LANKERSHIM BLVD. SUITE 370 NORTH HOLLYWOOD, CA 91601  
 SAN DIEGO OFFICE: 591 CAMINO DE LA REINA SUITE 910 SAN DIEGO, CA 92108  
 WALNUT CREEK OFFICE: 500 YGNACIO VALLEY ROAD SUITE 190 WALNUT CREEK, CA 94596

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