

January 6, 2023

Via U.S. Mail & Email (cclifford@gwusd.org, lhaynes@gwusd.org, ehaynes@gwusd.org,
plewis@gwusd.org, dwallace@gwusd.org)

Ms. Cherrill Clifford, President
Ms. Lindsy Haynes, Vice President
Mr. Elias Haynes, Clerk
Mr. Phil Lewis, Member
Mr. Dale Wallace, Member
Gateway Unified School District
Board of Trustees
4411 Mountain Lakes Blvd.
Redding, California 96003

Re: Brown Act Violations – Cease and Desist – Government Code §§ 54960.1 & 54960.2

Dear President Clifford, Vice President Haynes, Clerk Haynes, and Members Lewis and Wallace:

We write on behalf of the Gateway Teachers Association, CTA/NEA, to object to the Gateway Unified School District Board of Trustees' recent violations of the Brown Act, Cal. Gov't Code § 54950 et seq.

We understand that at its January 4, 2023 meeting, the Board of Trustees took formal action related to the recruitment of a new Superintendent without first permitting public comment. This was unlawful. As you were notified at the time, California law explicitly protects the public's right to comment on matters before or during board action on them: "Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item..." (Gov't Code § 54954.3(a); see also, e.g., *Galbiso v. Orosi Public Utility District* (2008) 167 Cal.App.4th 1063, 1079 [explaining that the Brown Act requires "an opportunity for public comment on each specific agenda item as it is taken up by the body"], citing *Chaffee v. San Francisco Library Commission* (2004) 115 Cal.App.4th 461, 468-69.)

Just as concerning is the fact that at that same January 4 meeting, individual Trustees engaged in whispered conversations with one another while in open session. Such secret discussions about matters agendized for open session deliberation and decision makes a mockery of the Brown Act's mandate that the public's business be transacted openly and transparently. (Gov't Code § 54953(a) ["All meetings of the legislative body of a local agency shall be open and public ..."]; see also Gov't Code § 54950 [requiring that public agencies' "deliberations be conducted openly"].) Trustees' secret communications on the dais in open session are no less improper than secret communications outside of the meeting. (Gov't Code § 54952.2 [serial communications between board members].)

Re: Gateway Unified School District Board of Trustees

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January 6, 2023

Page 2 of 2

We trust that upon due consideration, you will agree that the Board of Trustees’ actions at this week’s meeting were both profoundly undemocratic and also unlawful violations of the State’s Brown Act. Please let us have your written commitment to cure these violations by rescinding the actions taken regarding the Superintendent search, permitting public comment before or during Board consideration of and action on items, and refraining from engaging in secret communications. (Gov’t Code §§ 54960.1, 54960.2.) We request this written commitment not later than thirty (30) days from your receipt of this letter. (*Id.*) Please be advised that GTA reserves all rights in this regard.

Sincerely yours,

s/ Jacob F. Rukeyser
CTA Staff Counsel

cc: Michelle Davis, GTA President
Lori Adams, CTA UniServ Staff Representative
(*both via email only*)