

# EDUCATION CODE

## SECTION 89305-89307.4

89305. This article shall be known, and may be cited, as the Gloria Romero Open Meetings Act of 2000.

89305.1. (a) A legislative body of a student body organization shall conduct its business in public meetings. All meetings of the legislative body shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body, except as otherwise provided in this article.

(b) (1) As used in this article:

(A) "Legislative body" means any or all of the following:

(i) The governing body of any entity formed or operating pursuant to Section 89300.

(ii) The governing body of any statewide student organization that represents either the students of the California State University or the governing bodies of the student body organizations of the campuses of the California State University, or both.

(iii) A commission, committee, board, subboard, or other body, whether permanent or temporary, created by charter, resolution, or formal action of a legislative body described in clause (i) or (ii). However, an advisory committee is not a legislative body, except that a standing committee of a legislative body, irrespective of its composition, that has a continuing subject matter jurisdiction, or a meeting schedule established by charter, resolution, or formal action of a legislative body is a legislative body for purposes of this article.

(B) "Meeting" includes any congregation of a majority of the membership of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body to which it pertains. "Meeting" does not include, and nothing in this section imposes the requirements of this article upon, any of the following:

(i) Individual contacts or conversations between a member of a legislative body and any other person.

(ii) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to higher education of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as a part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the legislative body. Nothing in this clause is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(iii) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body or entity created or formed by the legislative body, provided that a majority of the members do not discuss among themselves, other than as a part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body.

(iv) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body.

(2) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(c) (1) Notwithstanding any other provision of law, the legislative body may use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body elects to use teleconferencing, it

shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 89306 at each teleconference location.

(d) Nothing in this section shall prohibit a student body organization from providing the public with additional teleconference locations.

(e) No legislative body shall take action by secret ballot, whether preliminary or final.

89305.4. As used in this article, "action taken" means 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 a 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, report, resolution, order, or recommendation.

89305.5. (a) Each legislative body shall annually establish, by resolution, bylaws, or whatever other rule is required for the conduct of business by that body, the time and locations for holding regular meetings.

(b) (1) At least 72 hours before a regular meeting, the legislative body, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that a member of a legislative body, or a member of his or her staff, may briefly respond to statements made or questions posed by a person exercising his or her public testimony rights under Section 89306. In addition, on his or her own initiative or in response to questions posed by the public, a member of a legislative body, or a member of his or her staff, may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to the rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(c) Notwithstanding subdivision (b), the legislative body may take action on items of business that do not appear on the posted agenda, but are publicly identified under any of the following conditions:

(1) Upon a determination, pursuant to Section 89306.5, by the membership of the legislative body that an emergency situation exists.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the legislative body subsequent to the agenda being posted as specified in subdivision (b).

(3) The item was posted pursuant to subdivision (b) for a prior meeting of the legislative body occurring not more than five calendar days prior to the present meeting.

89305.7. Any person may request that a copy of the agenda, or a copy of all the documents that constitute the agenda packet, of any meeting of a legislative body be mailed to that person. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 89305.5 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda

packets shall be valid for the calendar year in which it is filed, and shall be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, and that fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

89306. (a) (1) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item affecting higher education at the campus or statewide level, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (c) of Section 89305.5.

(2) Notwithstanding paragraph (1), the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the respective legislative body at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed, as determined by the legislative body, since the committee heard the item.

(3) Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) A legislative body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not necessarily limited to, regulations limiting the amount of time allocated for public testimony on a particular issue and for each individual speaker.

(c) A legislative body shall not prohibit public criticism of anything related to the student body organization, the legislative body, or both. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

89306.5. (a) A special meeting may be called at any time by the presiding officer of a legislative body, or by a majority of the membership of the legislative body, by providing written notice to each member of the legislative body, and to each local newspaper of general circulation and radio or television station that has requested notice of special meetings at least 24 hours prior to the meeting. The written notice shall specify the time and place of the meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. Written notice may be dispensed with as to any member who, at or prior to the time the meeting convenes, provides the clerk or the secretary of the legislative body with a waiver of written notice. Written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

(b) The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

(c) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of subdivision (b), or both.

(d) (1) For purposes of this section, "emergency situation" means either of the following:

(A) Work stoppage or other activity that severely impairs public health, safety, or both, as determined by a majority of the membership of the legislative body.

(B) Crippling disaster that severely impairs public health, safety, or both, as determined by a majority of the membership of the legislative body.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to subdivision (a) shall be notified by the presiding officer of the legislative body, or his or her designee, one hour prior to the emergency meeting by telephone. If necessary, the presiding officer or designee shall use all of the telephone numbers

provided in the most recent request of that newspaper or station for notification of special meetings to notify the newspaper or radio of the special meeting.

(3) If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(e) Notwithstanding subdivision (c) of Section 89307, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

(f) All special meeting requirements prescribed in subdivision (a) shall be applicable to a meeting called pursuant to subdivision (c), with the exception of the 24-hour notice requirement.

(g) The legislative body shall post in a public place, as soon after the meeting as possible and for a minimum of 10 days, the minutes of a meeting called pursuant to subdivision (c), a list of persons who the presiding officer of the legislative body, or designee, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting.

89307. (a) Any legislative body may hold a closed session under any of the following circumstances:

(1) A closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the student body organization to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease. Prior to the closed session, the legislative body shall hold an open and public session in which it identifies its negotiators, the real property or real properties that the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

(2) For purposes of this subdivision:

(A) A negotiator may be a member of the legislative body.

(B) "Lease" includes renewal or renegotiation of a lease.

(b) (1) Based on advice of its legal counsel, holding a closed session to confer with, or receive advice from, its legal counsel regarding a liability claim or pending litigation when discussion in open session concerning the matter would prejudice the position of the student body organization in the litigation.

(2) For purposes of this subdivision, all applications of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article.

(3) For purposes of this subdivision, "litigation" means any adjudicatory proceeding, including, but not limited to, eminent domain, court proceeding, or a proceeding of an administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(4) For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) Litigation, to which the student body organization is a party, has been initiated formally.

(B) A point has been reached where, in the opinion of the legislative body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the student body organization.

(C) Based on existing facts and circumstances, the legislative body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (B).

(D) Based on existing facts and circumstances, the legislative body has decided to initiate, or is deciding whether to initiate, litigation.

(5) For purposes of subparagraphs (B), (C), and (D) of paragraph (4), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the student body organization, but which the organization believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not necessarily limited to, an accident, disaster, incident, or transactional occurrence, that might result in litigation against the student body organization and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the

Government Code) or some other written communication from a potential plaintiff threatening litigation.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body, so long as the official or employee of the student body organization receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(6) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(7) Prior to holding a closed session pursuant to this section, the legislative body shall state on the agenda or publicly announce and identify the provision of this section that authorizes the closed session. If the session is closed pursuant to paragraph (1), the legislative body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the legislative body states that to do so would jeopardize the ability of the student body organization to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(8) For purposes of this subdivision, a student body organization shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the student body organization is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

(c) (1) Nothing contained in this section shall be construed to prevent a legislative body from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee of the student body organization or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) A legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee of the student body organization, but shall not include any elected official, member of a legislative body, or other independent contractor. Closed sessions held pursuant to this section shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

(d) (1) A legislative body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(A) Approval of an agreement concluding real property negotiations pursuant to subdivision (a) shall be reported after the agreement is final, as follows:

(i) If its own approval renders the agreement final, the legislative body board or subboard shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(ii) If final approval rests with the other party to the negotiations, the legislative body shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the legislative body of its approval.

(B) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation, as the result of a consultation under subdivision (b) shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the ability of the student body organization to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(C) Approval given to its legal counsel of a settlement of pending litigation, as defined in subdivision (b), at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(i) If a legislative body accepts a settlement offer signed by the opposing party, the legislative body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(ii) If final approval rests with some other party to the litigation or with the court, then, as soon as the settlement becomes final, and upon inquiry by any person, the legislative body shall disclose the fact of that approval and identify the substance of the agreement.

(D) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of an employee of the employee organization in closed session pursuant to subdivision (c) shall be reported at the public meeting during which the closed session is held. Any report required by this subparagraph shall identify the title of the employee's position. Notwithstanding the general requirement of this subparagraph, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(E) Approval of an agreement concluding labor negotiations with represented employees pursuant to subdivision (e) shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(2) Reports that are required to be made pursuant to this subdivision may be made orally or in writing. A legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 89306.5, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body, or his or her designee, orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(3) The documentation referred to in paragraph (2) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(4) Nothing in this subdivision shall be construed to require that a legislative body approve actions not otherwise subject to the approval of that legislative body.

(5) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this subdivision.

(e) (1) Notwithstanding any other provision of law, a legislative body may hold closed sessions with the designated representative of the student body organization regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its

represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation. However, prior to the closed session, the legislative body shall hold an open and public session in which it identifies its designated representatives.

(2) (A) Closed sessions of a legislative body, as permitted in this subdivision, shall be for the purpose of reviewing its position and instructing the designated representative of the student body organization.

(B) Closed sessions, as permitted in this subdivision, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

(C) Closed sessions with the designated representative of the student body organization regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of the available funds and funding priorities of the student body organization, but only insofar as these discussions relate to providing instructions to the designated representative of the student body organization.

(D) Closed sessions held pursuant to this subdivision shall not include final action on the proposed compensation of one or more unrepresented employees.

(E) For the purposes enumerated in this subdivision, a legislative body may also meet with a state conciliator who has intervened in the proceedings.

(3) For the purposes of this subdivision, the term "employee" includes an officer or an independent contractor who functions as an officer or an employee of the student body organization, but shall not include any elected official, member of a legislative body, or other independent contractors.

(f) (1) Prior to holding any closed session, the legislative body shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this subdivision shall require or authorize a disclosure of information prohibited by state or federal law.

(2) After any closed session, the legislative body shall reconvene into open session prior to adjournment, and shall make any disclosures required by subdivision (d) of action taken in the closed session.

(3) The disclosure required to be made in open session pursuant to this subdivision may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

89307.1. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of that meeting unfeasible, and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in that session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

89307.2. (a) A legislative body shall not conduct a meeting in a facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every legislative body as defined in Section 89305.1.

(b) A notice, agenda, announcement, or report required under this article need not identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

89307.4. Each member of a legislative body who attends a meeting of that legislative body where an action is taken in violation of any provision of this article, with knowledge that the meeting is in violation of this article, is guilty of a misdemeanor.

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