

## ***MEETING GUIDELINES: BROWN ACT COMPLIANCE FOR THE MIRACOSTA ACADEMIC SENATE AND SUBCOMMITTEES***

### Preamble

In 1953, the California legislature passed the Brown Act, a law designed to protect the public's right of access to the decision-making processes of local agencies (referred to in the Act as "legislative bodies"). In 1983, the state Attorney General's Office issued an opinion that community college academic senates are legislative bodies. Based on the Attorney General's opinion, both County counsel and District counsel issued opinions in 2003 that the MiraCosta College Academic Senate, the Academic Senate Council (discontinued in 2014), and their standing committees, are legislative bodies. Although these opinions have never been tested in court, the following guidelines were originally established by the Academic Senate Council in 2004 in accordance with the [Brown Act](#) and its emphasis on open meetings. These guidelines were revised in 2018.

These guidelines apply to the Academic Senate and subcommittees of the Academic Senate. In these guidelines, the term "body" refers interchangeably to the Academic Senate and any of its subcommittees.

Ad hoc groups (i.e., taskforce) of the Academic Senate and ad hoc groups of subcommittees are not subject to these guidelines as long as (1) they are composed solely of members of their parent body, (2) they do not constitute a quorum of the parent body, and (3) they are time-bound (i.e., the group completes its charge within a specific timeline).

Responsibility for ensuring that these guidelines are followed by the Senate is the responsibility of the Academic Senate President. Responsibility for ensuring that these guidelines are followed by a subcommittees is the responsibility of the subcommittee chair. Any person who feels that action was taken at a meeting in violation of these guidelines may ask the committee chair or the Academic Senate President to correct the action.

### Definition of a Meeting

The Brown Act defines a meeting as, "any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take any action on any item that is within the subject matter jurisdiction of the legislative body." Brown Act meetings include the body's regular meetings, special meetings, and emergency meetings. It also includes other activities such as workshops and retreats. The body would most likely hold regular and special meetings. It is rare to hold emergency meetings. All meetings must be held within the official boundaries of the district of MiraCosta College.

- **"Regular meetings"** are meetings occurring at the dates, times and locations set by resolution, ordinance, or other formal action by the body and are subject to 72-hour posting requirements.
- **"Special meetings"** are meetings called by the presiding officer or majority of the body to discuss only discrete items on the agenda under the Brown Act's notice requirements for special meetings and are subject to 24-hour posting requirements.

### Teleconferencing (e.g., Zoom)

Government Code Section 54953(b)(4) defines **"Teleconference"** as, "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." The following rules apply to teleconferencing:

- Agendas shall be posted at all teleconference locations.
- Each teleconference location shall be identified in the notice and agenda of the meeting.
- Each teleconference location shall be accessible to the public.
- The agenda shall provide an opportunity for members of the public to address the body directly at each teleconference location.
- During the teleconference, at least a quorum of the members of the body shall participate from locations within the official boundaries of the district of MiraCosta College.
- All votes taken during a teleconferenced meeting shall be by rollcall (i.e., voice vote).

The above provisions apply whether the member of the body is teleconferencing from an office, a residence, or any other physical location.

#### Public posting of meeting agendas

Agendas for regular meetings must be publicly posted 72 hours, both physically and online, in advance of the meeting's start time.

#### Guidelines

- The meeting agenda should include the date, time, and location of the meeting, a brief description of each agenda item to be dealt with, ability for public comment, and a statement about disability access. See teleconferencing section above for teleconference agenda requirements.
- All agendas for upcoming regular meetings of the Academic Senate and its subcommittees will be physically posted by the Academic Senate Administrative Assistant in the glass encasement outside the Academic Senate Office building (Oceanside 4600). Committee chairs must send agendas to the Administrative Assistant by 4pm Thursday of the week before the meeting, or more than 72 hours in advance, whichever represents a greater amount of time.
- All agendas for upcoming regular meetings of the Academic Senate and its subcommittees will be electronically posted by the Academic Senate Administrative Assistant on the appropriate Academic Senate or subcommittee website. Committee chairs must send agendas to the Administrative Assistant by 4pm Thursday of the week before the meeting, or more than 72 hours in advance, whichever represents a greater amount of time.
- All subcommittee chairs are responsible for distributing agendas electronically by sending a message with the agenda to the All Governance electronic mailing list no less than 72 hours before the start of the meeting. Agendas may not be altered less than 72 hours before the start of the meeting. Items listed on the agenda that are provided less than 72 hours (i.e., not in the agenda packet) to the body, and that are legally required to be available for public inspection should be provided to the Academic Senate Secretary in case the public wants to inspect it.
- Under certain circumstances, a body may call a special meeting. Agendas for special meetings must be posted as described above, but require 24 hour notice. The authorization of the Academic Senate President (or Academic Senate Vice-President/President-Elect if the President is not available) is required before the agenda for a special meeting may be posted. A special meeting also requires that the local media outlets be informed through the Public Information Office.
- A body may not discuss or act on an item which is not on the posted agenda.

### Right of the public to address a meeting

Members of the public (MiraCostans who are not members of the body and members of the general public) have the right to address the Academic Senate or subcommittees at any meeting. However, the body has considerable latitude to specify the manner and time in which members of the public may address the body. The body may apply reasonable time limits to such speech, as long as the time limits are equitably applied.

#### Guidelines

- Each meeting will include an opportunity for public comment.
- The committee is not required to answer questions or otherwise respond to public comment, although it may choose to do so briefly for purposes of clarification. However, the committee cannot act on any item not on the meeting agenda.
- Unless the committee has established a policy on public speech, the chair will abide by Board Policy 2345 regarding public speech at committee meetings. If there are members of the public present, time limits should be made clear, either by announcement or in written materials. Time limits may be different at different meetings, as long as they are reasonable, viewpoint neutral, and applied equitably to all persons wishing to speak to that agenda item. Depending on the circumstances of the meeting and the judgment of the committee, time limits of between three and five minutes are generally accepted as “reasonable.”
- Unless the committee has established a policy on public speech, the chair will abide by Board Policy 2345 regarding public speech at committee meetings. The committee may decide that members of the public may address the committee: (1) only at the beginning of the meeting; (2) only at the beginning of an agenda item; and/or (3) whenever they are recognized by the chair.
- Unless the committee has established a policy on decorum, the chair will abide by Board Policy 2355 regarding decorum at committee meetings. If members of the public continue to speak after being warned that they have exceeded their time limit or are otherwise disruptive, the chair may request that campus security remove the disruptive person from the meeting. The body should have explicit rules about proper decorum.
- Members of the public are allowed to record proceedings of the meeting, as long as it does not disturb or interfere with the proceedings of the meeting.

### “Serial meetings”

The Brown Act specifies that a body may not discuss matters within its jurisdiction except in publicly posted meetings. Outside of public meetings, any discussion intended to develop a collective concurrence on action to be taken on an item which involves or grows to involve a majority of members is a “serial meeting,” and is prohibited. The prohibition applies whether the discussion is direct, through personal intermediaries, through memos, or through email.

#### Guidelines

- The Academic Senate and its subcommittees may use memos or email to schedule meetings and send information (one-way transmittal of information with no response solicited or expected), but

not to exchange opinions or discuss items which are either on their agendas or likely to be placed on their agendas during the current academic year.

- Because of the broad jurisdiction of the Academic Senate, Senate members (i.e., representatives) should avoid any discussion of items under the Senate's jurisdiction with a majority of Senate representatives, except in Senate meetings.
- Academic Senate constituent groups (random selection of faculty) do not constitute a quorum of the Senate, so discussion (electronic or otherwise) within constituent groups are allowed. However, representatives should exercise caution as discussion may spread unintentionally to other constituent groups and potentially create a serial meeting between multiple Academic Senate representatives. A best practice to help deter serial meetings electronically is to use the blind copy (BCC) line when emailing constituent groups.
- If a committee wishes to develop and circulate a draft of a document outside of a meeting, electronically or otherwise, the recommended procedure is to establish an ad hoc taskforce for that purpose, subject to the conditions stated in the preamble. When ad hoc taskforce has finished the document, it may be sent to the full committee for information, either electronically or by hard copy. However, discussion and approval of the document by the full committee must occur in a publicly posted meeting.

### Recording of meetings

The Brown Act specifies that if meetings are recorded (audio or video), the recordings must be available for public inspection for at least 30 days following the meeting.

### Guidelines

- Meetings of the Academic Senate may be recorded to facilitate the production of meeting minutes. If recordings are made, they will be retained for 30 days or until the meeting minutes are approved, whichever comes later. After this time limit, the recordings may be destroyed.
- The recordings will be available for public inspection at the Academic Senate Office during business hours, except when they are actively being transcribed. The Academic Senate will provide equipment to view or listen to the recordings. The recordings may not be copied or removed from the Academic Senate Office, except by permission of the Academic Senate President.
- Subcommittees of the Academic Senate may make their own policies regarding recordings. However, any recordings which are made must be retained for at least 30 days and made available for public inspection.

### Reporting of Actions Taken and Votes

Pursuant to Government Code section 54953(c)(2), the body "shall publicly report any action taken and the vote or abstention on that action of each member present for the action." In the case where the body is using teleconferencing as a method to conduct a meeting, all votes must be cast by rollcall (see Section 54953(b)(2)). It is good practice to record votes in meeting minutes as well.

## Closed sessions

The Brown Act permits closed sessions of bodies only in a limited number of circumstances. Upon the guidance of District counsel, none of the exceptions that would allow a closed session apply to the Academic Senate or its subcommittees. The Academic Senate and its subcommittees are advisory in nature and do not have the authority to act on pending litigation, personnel matters, labor negotiations, real property transactions, or student discipline.

## Essential Elements of the Agenda

Agendas for Academic Senate and its subcommittees must conform to the following guidelines:

- A. Description of each item of business to be transacted or discussed.
- B. Date, time and location of the meeting, including all locations where committee members will be joining the meeting physically within the district, even if videoconferencing is used.
- C. Disability access information.
- D. Opportunity for members of the public to address the committee.
- E. Information on where the public can inspect open session documents provided to the committee less than 72 hours prior to a regular committee meeting.

The “look” of the agenda can vary from committee to committee; however, the essential elements must be present. For instance, whether you title a section “Presentation” or “Information” does not matter, as long as the title and following descriptions sufficiently describe each item of business (see essential item A).

The following page has a suggested agenda template and a mapping of the essential elements using superscript (e.g., text followed by a superscript letter<sup>A</sup>). Also see <https://tinyurl.com/yattwpdh> for more information regarding the Brown Act and agendas. Be sure to check: <http://bit.ly/1yeEp65> for the latest code.



**MIRACOSTA COLLEGE  
NAME OF COMMITTEE**

**REGULAR MEETING  
X P.M./A.M. – WEEKDAY – MONTH DAY, YEAR<sup>B</sup>  
ROOM ##### – BUILDING #####  
1 BARNARD DR., OCEANSIDE, CA**

**AGENDA**

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. APPROVE MEETING MINUTES**

A. Regular Meeting of MONTH DAY, YEAR

**IV. PUBLIC COMMENT<sup>D</sup>**

Members of the public shall have an opportunity to address the committee either before or during the committee's consideration of each item of business to be discussed at regular or special committee meetings, including closed session items. In addition, with limited exceptions, the committee will provide an opportunity at regular meetings to address the committee on any other item of interest which is within the subject matter jurisdiction of the Academic Senate. In order to efficiently manage the business of the committee, the committee chair may limit the amount of time allocated for public testimony for each individual speaker to three (3) minutes, and to limit the total time allocated on a particular issue to fifteen (15), unless waived by the committee (pursuant to Board Policy 2345). Decorum is to be expected by all members of the committee and public as outlined in Board Policy 2355.<sup>D</sup>

**V. CHANGES IN AGENDA ORDER**

**VI. COLLEGE RELATED REPORTS**

- A. Academic Senate President – NAME
- B. College Council - NAME

**VII. CONSENT ITEMS**

A. 20XX-20YY Meeting Calendar for NAME OF COMMITTEE

## VIII. PRESENTATIONS

### A. 20XX-20YY Proposed Budget – NAME

Description: *The office of the VP of Business Services has prepared a budget proposal for 20XX-20YY. This presentation will clarify the college's assumptions and projections for the budget for the next fiscal year and five-year outlook. All major governance committees are being presented this tentative budget for information and feedback.*<sup>A</sup>

## IX. FIRST READING

### A. Priority List for Full-time Faculty Hiring – NAME

Description: *Hiring Guide rubric provided to plan authors. On November X, 20XX, the AAC subcommittee met and shared their rubric scoring, engaged in robust discussion of the justifications provided by the plan authors and the potential for each request to positively impact the campus community, and developed a consensus prioritization of the full-time faculty requests. On November Y, 20XX, the recommended prioritization was discussed and unanimously approved by AAC and is now forwarded to the Academic Senate for consideration as a first read.*<sup>A</sup>

## X. SECOND READING

### A. Nomination for ASCCC – Hayward Award for Excellence – NAME

Description: *The Senate Awards subcommittee brings once associate faculty and one full-time faculty nomination for the statewide award to the Senate for approval to compete for the Academic Senate of California Community Colleges' Hayward Award for "Excellence in Education." The associate faculty nominee is NAME and the full-time faculty nominee is NAME. We ask for a motion to approve both nominees for statewide competition for the ASCCC Hayward Award.*<sup>A</sup>

## XI. FUTURE AGENDA ITEMS AND ANNOUNCEMENTS

## XII. ADJOURNMENT

Academic Senate and Subcommittee meetings are held in meeting rooms that are accessible to persons with mobility disabilities. If you wish to attend the meeting and you have another disability requiring special accommodation, please notify the Academic Senate Administrative Secretary at 760.795.6873 or 760.757.2121, extension 6873. The California Relay Service (CRS) is available by dialing 711, or 1-800-735-2929 or 1-800-735-2922.<sup>C</sup>

In compliance with Government Code section 54957.5, nonexempt writings that are distributed to a majority or all of the MiraCosta Community College District Academic Senate and Subcommittees in advance of their meetings may be viewed at the Office of the Academic Senate President, One Barnard Drive, Oceanside, California, or by clicking on the Academic Senate's website at <http://www.miracosta.edu/governance/academicsenate/index.html>. Such writings will also be available at the Senate or Subcommittee meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Debby Adler, Administrative Secretary to the Academic Senate President, at 760.795.6873 or by e-mail at [dadler@miracosta.edu](mailto:dadler@miracosta.edu).<sup>E</sup>

Approved 08/13/21 by Academic Senate