

MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE



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October 1, 2021

The Attorney General's Opinion Unit is responsible for researching and drafting the formal opinions of the Attorney General. This Monthly Opinion Report lists all of the questions that are currently under consideration for formal opinions.

The Attorney General welcomes and solicits the views of all interested persons concerning the issues raised in any question submitted for an opinion. Views should be in writing and directed to the deputy assigned to prepare the opinion. Contact information for deputies is included at the end of this report. All views submitted before publication will be considered, but early submissions are greatly preferred. All submissions will be treated as public records subject to disclosure under the Public Records Act.

For more information about the Opinion Unit, or to retrieve a copy of a published opinion, please see our website at <http://oag.ca.gov/opinions>.

NEW QUESTIONS ASSIGNED DURING SEPTEMBER 2021

No opinion requests were assigned during this period.

OPINIONS ISSUED OR CONCLUDED DURING SEPTEMBER 2021

Opinion No. 18-201 issued September 17, 2021

Questions Presented and Conclusions:

1. Would it violate the Ralph M. Brown Act for appointees to a joint powers authority to discuss a matter that is pending before that authority with their respective member agencies, at those agencies' separately held open meetings?

No. The contemplated discussions would not violate the Act because they would occur at open, public meetings, and there would be no collective deliberation by a majority of the members of any legislative body outside of such a meeting.

2. Would it violate procedural due process for a member agency of a joint powers authority to discuss with its appointee to that authority, at the member agency's open meeting, how to decide or vote a particular way on an adjudicative matter that is pending before the authority?

Depending on the particular circumstances, such discussion could violate procedural due process by infringing on a party's right to a neutral, impartial decision-maker.

Opinion No. 21-101 issued September 24, 2021

Question:

The IMPERIAL COUNTY OFFICE OF EDUCATION requests leave to sue ANNETTE GONZALEZ-BUTTNER in quo warranto to oust her from her public office as a trustee of the Imperial County Board of Education. The quo warranto application alleges that ouster is required on the ground that Gonzalez-Buttner also holds a second, incompatible, public office as a trustee of the Imperial Community College Board.

Conclusion:

We conclude that whether the doctrine of incompatible public offices precludes Annette Gonzalez-Buttner from simultaneously serving as a trustee of both the Imperial County Board of Education and the Imperial Community College Board presents substantial questions of law and fact that would ordinarily warrant a judicial resolution. Because Ms. Gonzalez-Buttner no longer holds the offices in question, however, we deny this quo warranto application as moot.

OPINIONS PENDING

Opinion Requests

- 21-501** Does California Civil Code section 4505(a) permit a homeowners association to require vendors enter a gated community through certain gates only? (Bidart)
- 21-401** May a district attorney provide criminal defense counsel or a self-represented criminal defendant an unreacted copy of a witness's or victim's state summary criminal history information during the criminal discovery process? (Medeiros)
- 20-1001** May a district attorney provide criminal defense counsel the defendant's unredacted state summary criminal history information during the criminal discovery process? (Medeiros)
- 20-303** Under the California Consumer Privacy Act, does a consumer's right to know the specific pieces of personal information that a business has collected about that consumer apply to internally generated inferences? (Duncan Lee)

- 20-301** Does a declaration of (1) a shelter crisis under Government Code section 8698 et seq., or (2) a public emergency under Government Code section 8625 et seq., constitute a scene of an emergency for purposes of the “Good Samaritan” Law in Health and Safety Code section 1799.102? (Binsacca)
- 20-102** May an executive director or other employee of a charter school serve as a member of the county board of education in the county where their employing school is located? (Binsacca)
- 19-1001** Does Government Code section 83105 prohibit a Fair Political Practices Commission member from making a campaign contribution to a candidate for President and/or Congress? (Bidart)
- 19-301** Is a paid victim advocate for sexually exploited youth a mandated reporter under the Child Abuse and Neglect Reporting Act (CANRA)? (Eisenberg)
- 18-1001** Is a county animal shelter permitted to refuse to relinquish an owner-surrendered dog to a nonprofit no-kill shelter? (Duncan Lee)
- 18-902** When a subdivider owns one parcel and subdivides that parcel pursuant to a parcel map, then sells off the resulting new subdivided parcels, and subsequently acquires a contiguous parcel and seeks to divide that parcel pursuant to a parcel map, should the local agency count the previously subdivided contiguous parcels as part of the application? (Medeiros)
- 18-603** 1. May a county superintendent of schools stay the issuance of bonds by a school district in fiscal distress under Education Code section 42127.6? 2. May such a stay remain in place pending resolution of an investigation related to the fiscal distress or outstanding audit deficiencies? (Binsacca)
- 18-103** Does Penal Code section 919(b) require the civil grand jury to annually investigate local detention centers as “public prisons”? (Bidart)
- 14-202** 1. Must school bond “premium” be deposited in a school’s interest and sinking fund? 2. May premium be used to pay expenses of issuance? 3. May premium be used to pay underwriter’s discount? 4. May premium be used to pay interest on previous bonds? (Duncan Lee)

Quo Warranto Matters

- 21-103** May the same person serve simultaneously on the La Habra City Council and as a member of the Orange County Office of Education Board of Directors? (Nolan)

CONTACT US

The Opinion Unit invites comments on the questions posed in pending opinion requests. To share your views, please contact the deputy assigned to prepare the opinion. Deputies can be reached at the following email addresses and telephone numbers:

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To submit an opinion request, please contact Mollie Lee, Senior Assistant Attorney General, at Mollie.Lee@doj.ca.gov or (415) 510-4439.

For all other inquiries, please contact Stephanie Grimes, Staff Services Analyst, at Stephanie.Grimes@doj.ca.gov or (916) 210-6005.

You may also contact the Opinion Unit at the following address:

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