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TO: Board of Education, Dr. Nellie Meyer, Superintendent, and the Public

FROM: Donald A. Velez, General Counsel

RE: Clarification re Brown Act, Agendas and Attachments

At the Board Meeting on October 12, 2015, a question was raised regarding the posting of the agenda and/or attachments that are to be provided to the public with respect to agenda items. I would like to clarify these separate requirements for the Board and the public.

With respect to the agenda, Government Code section 54954.2, subdivision (a), requires the Board to provide a brief general description of each agenda item (generally not to exceed 20 words) 72 hours or more before a regular meeting.

However, a different Government Code section covers attachments. Government Code section 54957.5, subdivisions (b)(1) and (b)(2), address attachments and state:

- (1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.
- (2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

Government Code Section 54957.5(b) means that a writing may be made available less than 72 hours before the meeting, but it shall be made available to the public when it is distributed to a majority of the Board. The District's practice adheres to this requirement. I hope this clarifies the difference between the agenda posting and the attachment distribution requirements for the Board and the public.