

**Special Districts' Compliance with
Brown Act and Ethics Laws**

2018-2019 Nevada County Grand Jury

Summary

Special districts are local government agencies that provide essential, focused services to residents, including sewage treatment, providing water, fire protection, operation of parks, maintaining roads, and cemetery operation. There are 24 independent special districts (Districts) under Nevada County Local Agency Formation Commission oversight having combined annual operating budgets in excess of \$140 million dollars (see Appendix A for a list of the Districts surveyed). Their functions vary broadly based on the type of service(s) they perform, but all are governed by state transparency, conflict of interest, and ethics laws.

The 2018-2019 Nevada County Grand Jury (Jury) surveyed special districts to evaluate their compliance with these laws and best practices. The goal was to assess whether Districts meet expectations of transparency and accountability. Districts should do much more than legally required to excel in these areas.

Many district board members are not adequately trained for effective governance. Not all Districts are in full compliance with state laws requiring transparency, accountability, and ethics training. Districts self-reported:

- All are up to date in their completion of Form 700, a statement of economic interests that allows the public to understand potential conflicts of interest.
- About two thirds of board members have received ethics training.
- Almost half of the Districts appear to be current with legally required ethics training.
- Just over half of board members have received Brown Act training.
- Staff training in both of these areas is lower than board member training.

These results created concern that systemic support for transparent government is lacking. There are a number of resources available to board members, both as new office holders and during tenure in office. The Jury recognizes that public service can be overwhelming at times; solid upfront training helps navigate the challenges.

It's not just the law; it's good governance.

Glossary

Board	The Board of Directors/Trustees/Councils, etc. of an organization
Brown Act	Ralph M. Brown Act, California Government Code §54950-54963
District	The 24 independent special districts with Nevada County LAFCo oversight
Ethics Training	Ethics education and training required by California Assembly Bill 1234 (AB1234) which updated the State Government Code §53234
Form 700	Statement of Economic Interests required by the Fair Political Practices Commission
Jury	2018-2019 Nevada County Grand Jury

Background

In California, each of the 58 counties empanels a grand jury to investigate the operations of the various officers, departments, and agencies of local government. A grand jury may examine all aspects of county or city government, special districts, and other tax-supported organizations to ensure that the best interests of the citizens of the county are being served.

State law defines a special district as “any agency of the state for the local performance of governmental or proprietary functions within limited boundaries.” Special districts are forms of local government created by a community to meet a specific need. Most of California’s special districts perform a single function such as sewage treatment, providing water, fire protection, maintaining roads, or cemetery operation.

Special districts are governed by Boards that are accountable to the voters within the district boundaries. State rules and regulations governing district operations vary based on the type of service offered; for example, cemetery districts and public utility districts fall under different state and local codes. Their operations, as well as the laws they must follow, can be complex.

All special districts face a number of common requirements, including:

- adherence to the Brown Act,
- participation in Ethics Training, and
- completion of Form 700.

Operating within the guidelines set by state law should be a high priority of the Board and senior staff of Districts. Understanding public transparency laws and behaving ethically is essential to good governance, both because they allow operations to remain focused and because they are critical to keeping the public trust.

The Brown Act was created to provide public access to meetings and its goal is to ensure that government remains accountable to the public. This purpose statement is described in the Act:

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. State Government Code §54950.

California Assembly Bill 1234 (AB1234) updated State Government Code §53234 to require Ethics Training. It directs that special district board members and senior staff members are required by law to take Ethics Training courses if the officials could receive compensation or reimbursement of expenses. This applies even if they do not accept compensation or reimbursement.

Every elected official and public employee who makes or influences governmental decisions is required to submit a Statement of Economic Interest, also known as Form 700. Form 700 provides transparency and ensures accountability by disclosing the official's personal financial interests. This helps ensure that officials are making decisions in the best interest of the public and not enhancing their personal finances. It also serves as a reminder to the public official of potential conflicts of interest.

The Jury examined compliance with these three legal requirements.

Approach

The Jury developed and distributed questionnaires to each of the 24 Districts that have LAFCo oversight. The questionnaires consisted largely of yes or no questions and were completed in October 2018. Ten of the questions dealt with Ethics Training, conflict of interest (Form 700) statements, and Brown Act training.

Additionally, the Jury researched:

- past Jury reports;
- California law on ethics, conflict of interest, and the Brown Act; and
- the California Special Districts Association website.

Discussion

In Nevada County, the 24 Districts surveyed manage a wide variety of governmental functions including the provisioning of firefighting, water, sanitation services, roads, parks and recreation, public utilities, and cemeteries (see Appendix A for a list of the Districts surveyed). Most Districts have five board members and the majority have paid staff. Their combined annual budgets total in excess of \$140 million with individual budgets ranging from \$12,800 to \$59.5 million per year.

While their functions and sizes are very different, every District is obligated to be responsive to the public. As noted in the 2015-2016 Nevada County Grand Jury report *Being a Better Board Member*, "Many Boards are staffed by well-intentioned and enthusiastic volunteers who may not have the training or knowledge of their responsibilities. The agencies for which they volunteer should take measures to ensure that those volunteers are trained, understand, and accept those responsibilities."

There are minimum requirements for training. Conflict of interest declarations must be filed. Each District must remain accountable to the public as specified in the Brown Act. The Jury asked each District about their compliance in these three areas.

The self-reported results indicate that 100% of all District board members have a current Form 700 on file, which means that the public has visibility regarding potential financial conflicts which may arise.

The results on Ethics and Brown Act training were not satisfactory. The survey indicated that:

- 58% of Districts reported that board members have received Brown Act training,
- 44% of Districts with staff reported that staff has received Brown Act training,
- 29% of Districts reported Brown Act training in 2017 or 2018,
- 67% of Districts reported that the Board has received Ethics Training,
- 61% of Districts with staff reported that staff has received Ethics Trainings, and
- 46% of Districts reported Ethics Training in 2017 or 2018.

These results created concern that systemic support for transparent government is lacking. The resources exist to allow Districts to improve these numbers. Ethics Training can be taken in person, online, or in a self-study course ending in a test. Some of the available training assists in the completion of Form 700. A variety of organizations offer training in Nevada County. In addition, training is available from the Institute for Local Government, the California Fair Political Practices Commission, and the State Attorney General. Brown Act training is provided by the State Attorney General, the League of California Cities, and by industry-specific groups.

In addition to the specific training outlined above, a number of opportunities exist for Board members to learn their roles, duties, and responsibilities; some of these training sessions also cover Brown Act, Form 700, and Ethics requirements. The following organizations offer training for Board members:

- California Association of Local Agency Formation Commissions (CALAFCo),
- League of California Cities,
- California Special Districts Association,
- California State Association of Counties (CSAC),
- Nevada County Community Leadership Institute, and
- Nevada County LAFCo.

Like all government agencies, Districts have the responsibility to operate in an ethical fashion and keep the public informed of their actions. Training is a critical component of successful board performance. It allows elected and appointed officials to follow both the spirit and the letter of the laws enacted to promote good government. While the Jury recognizes that training will not prohibit an abuse of power, it is essential to help public servants succeed.

Findings

1. Special districts have four distinguishing characteristics. They:
 - a) are a form of government,
 - b) have governing Boards,
 - c) provide services and facilities, and
 - d) have defined boundaries.
2. All Board members are responsible to, and operate on behalf of, the public they serve.
3. Government codes mandate the completion of Form 700 by all Board members and senior staff disclosing personal assets and income.
4. Any elected or appointed official who may be compensated for their service or reimbursed for their expenses must complete mandatory Ethics Training, prescribed by California Assembly Bill 1234 (State Government Code §53275, subdivision (c)). The training must be completed within six months of taking office or taking a position and, if service is ongoing, once during each two-year period.
5. Special districts are subject to the Brown Act.
6. Ethics and Brown Act training is readily available and easy to access and complete.
7. Many Nevada County Districts self-reported that they are not fully compliant with Ethics Training requirements.
8. Many Nevada County Districts self-reported that they are not providing Brown Act training to board members and staff.

Recommendations

1. All Districts must continue to adhere to State law regarding Form 700.
2. All Districts must make available, monitor, and document participation in Ethics Training for board members and appropriate staff members.
3. All Districts should make available, monitor, and document participation in Brown Act training for board members and appropriate staff members.

Request for Responses

No responses are required.

Appendix A

Nevada County Primary Special Districts

- Bear River Recreation and Park District
- Beyers Lane Community Service District
- Higgins Fire Protection District
- Kingsbury Greens Community Services District
- Lake of the Pines Ranchos Community Services District
- Mystic Mines Community Services District
- Nevada County Resource Conservation District
- Nevada Cemetery District
- Nevada County Consolidated Fire District
- Nevada Irrigation District
- North San Juan Fire Protection District
- Oak Tree Park & Recreation District
- Ophir Hill Fire Protection District
- Peardale-Chicago Park Fire Protection District
- Penn Valley Fire Protection District
- Rough & Ready Fire Protection District
- San Juan Ridge County Water District
- Truckee Cemetery District
- Truckee-Donner Public Utility District
- Truckee-Donner Recreation & Park District
- Truckee Fire Protection District
- Truckee Sanitary District
- Washington County Water District
- Western Gateway Recreation and Park District