

BY EMAIL AND PERSONAL DELIVERY

February 21, 2025

School Board President Shana Segal

Palo Alto Unified School District

25 Churchill Avenue

Palo Alto, CA 94306

Re: Brown Act Violations Necessitate Rescinding January 23 Meeting Action

Dear PAUSD Board President Shana Segal,

I am writing to put the Palo Alto Unified School District (PAUSD) on notice about at least two Brown Act violations regarding your January 23, 2025 Special Meeting (Meeting) that formally agendaized to:

- 1) Confirm that completion of Ethnic Studies will remain a graduation requirement beginning with the Class of 2029 as established by the Board of Education on September 12, 2023, regardless of a state mandate triggered by funding, and
- 2) Approve the Palo Alto Unified School District Ethnic Studies course as presented for the 2025-26 school year. [1.23.25 Agenda](#)

In one vote at the end of the Meeting, the Board approved both actions above 3:2 (Segal, Dharap and Salcman approving and Chiu and Kamhi opposing).

I consulted with an attorney about the Meeting and have identified evidence supporting that the Board's January 23 action on 1) and 2) above must be formally cured and corrected, and if not then nullified and voided, due to the Brown Act violations set forth in detail below.

The Board's interest in PAUSD students learning about Ethnic Studies is a matter of high importance. Its work, however, always must be done in accordance with all applicable public transparency and access laws.

As you, Board President Segal, and Vice President Dharap wrote in the Palo Alto Weekly, "the public expects transparency [and] accountability" from PAUSD trustees, underscoring that "allowing falsehoods to persist erodes trust and weakens the Board's ability to govern effectively." [i]

**1. PAUSD Board Agenda Description is Grounded in a Foundational Falsehood that was Known to Board President and Vice President: the False Description of the Board's 2023 Action**

The California Brown Act prohibits California school boards from taking action on "any item not appearing on the posted agenda" which must contain "a brief general description of each item of business to be transacted." CA Government Code § 54954.2(a)(1) and (a)(3). Any interested person may commence an action to nullify and void a school board's action that violates the agenda requirements. CA Education Code Section 35145(b). These laws ensure that the public knows the public's business that will be transacted so it can address its elected

representatives on matters of interest before action is taken. *Carlson v. Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 200 (misleading agenda description) and 67 Ops.Cal.Atty.Gen. 84, 87 (1984).

The January 23, 2025 Board meeting's agenda description (required by the Brown Act) fundamentally misled the public on a material item that the Board acted upon at that meeting and so violated the Brown Act. Specifically, the agenda falsely described the effective date of the prior Board's action making Ethnic Studies a PAUSD high school graduation requirement as 2029. The agenda stated that the board will vote on "confirm[ing] that completion of Ethnic Studies will remain a graduation requirement beginning *with the Class of 2029* as established by the Board of Education on September 12, 2023" (emphasis added). In fact, the correct effective date was 2030.

At the October 10, 2023 Board meeting,[ii] the full Board approved making Ethnic Studies a high school graduation requirement starting with the Graduation *Class of 2030*; the vote approving it was 5-0 on consent with Trustees Shana Segal and Shounak Dharap voting in favor. (This vote was based on the September 22, 2023 Board Policy Review Committee's[iii] recommendation of the same; trustees Segal and Dharap served on that review committee.)

Yet, both the 20-word agenda description (required by the Brown Act) and the extended agenda description misrepresented the Board's 2023 actions, stating that they pertained to the Graduation Class of 2029, not to the Graduation Class of 2030. This acceleration of the start date by a year was unknown to the other three trustees who were sworn in December 2024; they were not on the Board in 2023 and so were unaware that a yes vote would reject, not confirm, the start date established by the Board in 2023.

This material misrepresentation was advanced by PAUSD's two agenda setting committee members Board President Segal and Vice President Dharap. It was reiterated (i) in the proposed motion set forth in President Segal and Vice President Dharap's approved agenda description, and (ii) by President Segal and Vice President Dharap throughout the Board's deliberations at the January 23 Meeting.

Ultimately, Trustee Salcman relied on this misrepresentation when casting his vote in support of Vice President Dharap's motion to "confirm" a Class of 2029 start date, a motion seconded by President Segal and supported by Dharap and Segal. As the January 23 Meeting neared the fifth hour, President Segal and Vice President Dharap secured Trustee Salcman's support, and so a majority, with that foundational misrepresentation.

In fact, throughout most of the January 23 meeting Trustee Salcman, Trustee Kamhi, and Trustee Chiu expressed interest in removing or pausing the start of an Ethnic Studies graduation requirement, as Superintendent Austin recommended.[iv] But President Segal and Vice President Dharap pressed for a Graduation Class of 2029 start date. For example:

- a. After Trustee Salcman moved to cancel the Board's 2023 action, Vice President Dharap explained to Salcman, a new Board member, that "a policy is a promise so we have a policy the board enacted [in 2023]. When a body votes to break its promise, to overturn a policy, there are usually very strong overriding reasons why that's the case. Things have changed, the circumstances are different, there's new information...What I am really keen on is why overturn an existing policy?"

b. Immediately after Trustee Kamhi proposed a compromise -- to delay the start by a year to the Class of 2030 to gather information about what the Ethnic Studies course contains -- President Segal stopped the meeting unilaterally and all five Board members exited the Board room together for 15 minutes.

When the trustees returned, Vice President Dharap improperly withdrew Trustee Salcman's motion to not require Ethnic Studies for graduation that had been seconded by Trustee Kamhi. Dharap, also improperly withdrew Trustee Kamhi's proposed amendment to delay the requirement by a year. Vice President Dharap explained that his actions "will moot the amendment I believe and if not let's just say it does and so there are not motions or amendments on the table." [v] He replaced it with his own motion as that stated in the agenda, again without noting the motion's foundational misrepresentation.

Had President Segal permitted Trustee Kamhi's amendment to be voted on, the Board could have confirmed the prior Board's 2023 action. [vi]

Board President Segal did not object to Vice President Dharap's unilateral override of Trustee Salcman's motion and Trustee Kamhi's amendment. Instead, President Segal and Vice President Dharap made a set of promises to Trustee Salcman to gain his vote. When Trustee Salcman hesitated, Vice President Dharap assured him that "we should be able to trust each other's word." Trustee Salcman then voted yes and both motions in the agenda were approved verbatim in one vote (3-2).

The best way to fix the Brown Act violation is to nullify the Board's January 23 vote. The Board then can either vote to suspend the graduation requirement until the State issues guidance as Dr. Austin recommended or let stand the Board's October 2023 action making Ethnic Studies a Class of 2030 graduation requirement. Both would provide time for the Board to review the Ethnic Studies course materials in the detail required of it by the Education Code and the Board's policies which call for transparency and community involvement.

## **2. PAUSD Board President was Non-transparent: Discussed Ethnic Studies with Majority of Board Members Outside a Noticed Public Meeting Prior to the Board's Vote**

The California Brown Act requires all school board meetings to be conducted in the open and prohibits "a majority of the members ... outside a meeting authorized by this chapter, [to] use a series of communications of any kind ... to discuss... any item of business that is within the subject matter jurisdiction" of the board." CA Government Code Sections 54952.2(b)(1) and 54953. Any interested person may commence an action to nullify and void a school board's action that violates these requirements. CA Education Code Section 35145. These laws are to ensure that the public is privy to the board's thought processes and the Board's work is done in the open.

Board President Segal partnered on the Ethnic Studies course (Course) approval with Trustee Salcman. President Segal also had substantive discussions on this matter with Vice President Dharap since the two are members of the agenda setting committee.

In January 2025, President Segal and Vice President Dharap addressed more than the ministerial act of placing an item on the regularly scheduled Board meeting agenda. They:

- (i) Rejected Superintendent Austin's January 16 public recommendation to not place Ethnic Studies on the agenda until information on whether Ethnic Studies will be funded and required by the State is issued by the California Legislature,
- (ii) After pulling this off the January 21 agenda they instructed staff to call a Special Meeting for Ethnic Studies only for January 23, and
- (iii) Approved the formal agenda description with specific wording of the motions they supported, again with the known material misrepresentation ("confirm...Class of 2029") embedded in it,

constituting a convening of a majority of Board members on a substantive matter outside a noticed public meeting.

The cure is to correct, or nullify and void, the vote.

There may be additional Brown Act violations that necessitate that both Meeting actions be cured and corrected, or nullified and voided, too such as if a Board member spoke about Ethnic Studies with another Board member during the January 23 Meeting's 15 minute break, taken without adjourning the meeting, outside the boardroom and so not open to the public.

### **Overall Endemic Lack of Transparency**

I also note other quite troubling lack of transparency examples that PAUSD Board leadership – President Segal and Vice President Dharap – refused to correct, let alone address, in their rush to get the Board to approve the content of the new Ethnic Studies course that all 9<sup>th</sup> graders will be required to take.

#### **1. PAUSD Refused to Fill Public Records Act Request for the Piloted Ethnic Studies Course Curriculum and Materials Prior to the Vote**

In October 2024, a PAUSD parent submitted a request under the CA Public Records Act for the piloted Course's materials and resources.[vii] Her repeated attempts to obtain these records have been unsuccessful, even after putting all PAUSD Board members and Superintendent Austin on notice on January 16, 2025 – seven days before the vote – of the following:

All this information is time sensitive, intended to give the public information so it can give input on an up or down Board vote this Tuesday, January 21 on whether to make that piloted course a districtwide graduation requirement starting this Fall.

PAUSD's excuses and delays have made it impossible for the public to participate in that vote, the very intention of the Public Records Act underscored by the California Constitution, Article I, Section 3:

(a) The people have the right to instruct their representatives...for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the ... writings of public officials and agencies shall be open to public scrutiny...

This coming Tuesday, January 21, there is an important PAUSD Board meeting during which there is an intended Board vote to approve the new Ethnic Studies course as piloted last semester. And still, despite the legal requirement to do so, you and your colleagues have not been willing nor able to share the specific materials and curriculum upon which you are asking Board members to make an important decision that directly impacts our children and our wider community. (emphasis in original)

On January 22, 2025, the eve of the Board's action on this item, PAUSD sent her "Curriculum and Sample Lessons." This document, however, was flatly disavowed by Superintendent Austin and the Ethnic Studies teachers during the January 23, 2025 Board meeting, referring to it as a year old brainstorming draft and not the piloted Course's curriculum. On February 11, 2025, two weeks after the Board's vote, PAUSD sent her a Course syllabus[viii] with a note that this provides "links to materials that were given to students." The footer of the syllabus, however, states that it is just "part of a pilot program and does not necessarily reflect the finalized curriculum."

Neither Board leadership nor Superintendent Austin, included in her communications, offered the parent assistance or guidance on this matter. Rather, knowing that she had not obtained the materials she needed to inform the Board's January 23 vote, they proceeded to agendize the matter and then approved the Course content.

## **2. PAUSD Board Approved Ethnic Studies Course Without Reviewing its Curriculum and Instructional Materials**

Similarly, PAUSD was not forthcoming with the Course materials during the January 23, 2025 Meeting; the agenda called upon the Board to "approve the Palo Alto Unified School District Ethnic Studies course *as presented* for the 2025-26 school year." (emphasis added)

What was "presented" in the agenda packet, and approved by the Board that night, was (i) a cursory Course Description without planned content, and (ii) "Curriculum and Sample Lessons,"[ix] the latter Superintendent Austin and the Ethnic Studies teachers *flatly disavowed* during the Meeting before the vote.

Under California law, school boards must establish the school district's planned course content.[x] Yet, three Board members (President Segal, Vice President Dharap, and Trustee Salcman) approved the Course content as presented in the agenda packet, which was comprised of the cursory Course Description and the *disavowed* "Curriculum and Sample Lessons" document. As to the latter, they did not condition their vote upon its removal.

Moreover, they received the 16 page document, with links to materials for a semester-long class, one day before their Board vote, insufficient time for careful review and reflection.

The “Curriculum and Sample Lessons” document has materials that advance racial stereotypes, note a consensual sex act between young boys and adult males, provide resources with anti-authority sentiments and on violent resistance, and focus on social justice activism. It includes a Wheel of Power and Privilege, an assignment to write a "social justice manifesto," and several resources on the Black Panther Party including assigning students readings from its manifesto. The final exam question is to opine on using violent resistance to gain agency.

### **3. PAUSD Rebuffed Community’s Year-Long Campaign for Transparency**

Interested in having a voice in PAUSD’s Ethnic Studies course’s development, parents and community members organized under the Palo Alto Parent Alliance[xi] umbrella and garnered over 1,400 local signatures on a petition that asked PAUSD to pause its Ethnic Studies course adoption until Course information was shared and their input was obtained. They stated that their interest rested in PAUSD’s Ethnic Studies course skirting content and controversies embroiling districts that adopted liberated Ethnic studies.

They submitted a letter[xii] with these signatures to PAUSD in May 2024, to no avail.

Overall, the PAUSD Board is engaged in an effort of profound significance – adopting an Ethnic Studies course all students will be required to pass in order to graduate. The rigor of the proceedings by which your Board undertakes that effort must therefore be commensurate to the task in order to arrive at a lawful and fully informed result.

So for the Brown Act violations enumerated above, I call for the Board to formally cure and correct, or nullify and void, its action at its January 23, 2025 Special Meeting that (i) set a Graduation Class of 2029 Ethnic Studies graduation requirement, and (ii) approved the Ethnic Studies course content “as presented” in that agenda which includes the “Curriculum and Sample Lessons” document Superintendent Austin disavowed prior to its vote.

Sincerely yours,



Alan Crystal

PAUSD Parent and Palo Alto resident

cc: Santa Clara County District Attorney Jeff Rosen

PAUSD School Board Vice President Dharap

PAUSD Trustee Chiu

PAUSD Trustee Kamhi

PAUSD Trustee Salcman

PAUSD Superintendent Don Austin

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[i] [Opinion: A call by school board members to rebuild a broken trust - Palo Alto Online](#)

[ii] [https://go.boarddocs.com/ca/pausd/Board.nsf/files/CWBU767A9F59/\\$file/20231010BP6146.1HighSchoolGraduationRequirementsPROPOSED.pdf](https://go.boarddocs.com/ca/pausd/Board.nsf/files/CWBU767A9F59/$file/20231010BP6146.1HighSchoolGraduationRequirementsPROPOSED.pdf)

[iii] [https://go.boarddocs.com/ca/pausd/Board.nsf/files/CVSVS582166A/\\$file/20230922\\_BP-6146.1\\_HSGradRequirements\\_PROPOSED.pdf](https://go.boarddocs.com/ca/pausd/Board.nsf/files/CVSVS582166A/$file/20230922_BP-6146.1_HSGradRequirements_PROPOSED.pdf)

[iv] <https://www.pausd.org/about-us/news/announcements/do/~board/a/post/ethnic-studies-graduation-requirement-paused>

[v] Roberts Rule of Order require votes on pending motions.

[vi]. January 23, 2025 Board Meeting <https://www.youtube.com/watch?v=0NQTDx90rQE&t=7101s>

Trustee Salcman:

**"I move that we overturn the mandate or overturn the prior board decision to make ethnic studies a mandate for graduation in our school district"** (2:05)

Trustee Kamhi:

"I second" (2:05)

Board VP Dharap

**"So we have the original motion on the table which is to overturn the prior board's mandate. Somebody else can amend again"** (2:48)

**"A policy is a promise so we have a policy the board enacted and the policy is for a mandate...when a body votes to break its promise, to overturn a policy, there are usually very strong overriding reasons why that's the case. Things have changed, the circumstances are different, there's new information...what I am really keen on is why overturn an existing policy?"** (hour 2:53)

Trustee Kamhi

"What I'm hearing is there is some concern about approving this class as a mandate at this moment so what I would I'm going to put another motion on the table or no **I'm amending the motion to defer the mandate one year so that we can get information** um and uh about what maybe more documents and review we can talk about what that looks like. I'm trying to find a way to move us forward right while recognizing the importance of Ethnic Studies to the students, to the community, to all of us. **So I'm putting a motion on the table to defer the mandate for one year before in in the course approval** (hour 4:02-03)

*[President Segal called for Board members to break for 5 minutes without a motion. All left together and returned to the public meeting 15 minutes later.]*

Trustee Kamhi:

**"There's a lot of new information as Ms. \_\_\_ said that's coming at us. So I think we learned that what we thought were the materials were maybe not the materials and now I just want to now I think we're learning that the way that we thought the students picked the class is not the way I just want to clarify because a lot is resting on the student evaluations which were incredibly positive. So I just want to hear a little bit more where about how the students were then picked for this class cuz there's a lot resting on it right? We don't have a lot of data, we do not have standards from the state, we do not have information about what the class is about.** And now I want to know just kind of how to conceptualize the um surveys that we got. \*(hour 4:41-42)

Ethnic Studies Teacher Patrick:

Well I would say we also got some new information from the students. At a previous steering committee steering is the secondary is for a subject uh we had discussed the need to get list of students for a pilot. So the Middle School teachers went back to the Middle School representatives went back to their sites and talk to their teachers to forward a list of students to us um to our counselors. (4:42)

Ethnic Studies Teacher Sano.

May I add something? So it was a little more formal in that there was a there was a standard presentation every single eighth grade student got from their 8th grade social studies teacher to introduce the idea and then and then from there **we got a list of names of kids who we thought said I'm interested.** (4:42-43).

Board VP Dharap

"Do we want to vote on the amendment or just do a straight up or down vote just to get it done...my opinion is that we should just vote down the amendment and let's just do a straight up and down vote. In fact, **let me do this...withdraw my motion which will moot the amendment I believe and if not let's just say it does and so there are not motions of amendments on the table. I am going to move that we approve the course and confirm the mandate as presented.**" (4:43)

*[note: violation of Roberts Rules, it was Salcman's motion with Kamhi's amendment so Dharap had no authority to remove it.]*

Trustee Kamhi

"Just to clarify, the motion on the table is approving the course as is to **begin as mandatory in the Fall.**" (4:44)

Board President Segal:

**"Yes, so that would be not overruling the current board policy. So it would be confirming. So it is a graduation requirement for the class of 2029** one semester ethnic studies course. I just want to make sure we word it should I just read it here **the way it was originally written?"** (4:44).

President Segal:

I second. (4:44)

VP Dharup:

And of course in our promised study session Mr Salcman I think part of that is going to be a discussion about progress indicators and goals and how we measure them and what we expect to see in terms of measurements when things come to the board along those goals and board liaison being conduits more active conduits maybe for community input as discussions happen at the site level. (4:44)

President Segal:

So that motion is on the table. Should we do an up and down vote

VP Dharup:

Let's do.

VP Dharup:

She's she's got it.

President Segal:

**So to approve as presented** (4:45)

VP Dharup:

Everyone knows what the motion is right we're we're we're voting to approve (445)



?? So the motion is **just what is the action item on the agenda.**

VP Dharup:

**Correct**

?? both at the same time?

VP Dharup:

Correct.

Student board preferential vote: 2 yeses

Dharap and Segal: 2 yeses

Trustee Kamhi:

no

Trustee Salcman:

**How do I know that I have a commitment from folks in this room to try to address the concerns that I raised? (4:45)**

VP Dharup:

A sock full of nickels. I mean you've heard me express I think we you know **if the majority of the board is expressing that we are going to do this, Miss Segal can I think say that we're going to**, at the study session, going to discuss progress indicators and **you know how we measure against the promise and what our expectations are for public you know stakeholders input. We should be able to trust each other's word I think we can, (4:47)**

President Segal:

And that study session **is tentatively scheduled for March 25th** so it is scheduled to discuss the PAUSD promise and based on you know the feedback we have here today I would be very amenable to look at our progress indicators and ethnic studies and go into and

VP Dharup:

I and I think everybody here knows what under you know understands I said it publicly I think we've it's public record **I think you can trust me that we can talk about that**

President Segal:

But there's time like we can all take a breath you guys everybody can just sit back like I don't want anybody to feel rushed into a decision so we have time and it's just and you have time like there's there is no rush I'm just I just want to make that clear there's we have we have time (4:48)

Trustee Chiu:

no (4:49)

Trustee Salcman:

I vote aye (4:50)

[vii] October 2024 Public Records Request: *""Please provide the following public records: all course outlines, lessons, content, instructional materials and Google folders assembled for PAUSD's Fall 2024 Ethnic Studies course."*

[viii] <https://www.pausd.org/learning/curriculum/ethnic-studies>

[ix] [Ethnic Studies - New Course DRAFT for Jan 2025](#) and [ES - Scope and Sequence Calendar \(by wk\)](#)

[x] CA Education Code Sections 51013, 51014, 51220, 51220.3, 51224, and 60000(c).

[xi] [www.pa-square.org](http://www.pa-square.org)

[xii] [Hit Pause on PAUSD ES](#)