

**[PROPOSED] RESPONSE OF BAKERSFIELD COLLEGE ACADEMIC SENATE (BODY REP.) TO
"CURE OR CORRECT NOTICE" DATED MARCH 1, 2023**

TO: STEVEN HOLMES

Pursuant to Government Code section 54960.1(c) and without conceding violations of the Brown Act, the following is the response of the Bakersfield College Academic Senate (Body Rep.) to the alleged violations in your March 1, 2023 "cure or correct" notice and the actions taken in response to your specific requests to cure or correct the alleged violations.

-----Original Message-----

From: Nick Strobel <nstrobel@bakersfieldcollege.edu>

Sent: Monday, March 13, 2023 2:17 PM

To: Steven Holmes <sholmes@bakersfieldcollege.edu>

Subject: Response to Cure and Correct message of March 1

Dear Steven Holmes,

Thank you for your email dated March 1, 2023 (copy below), containing a "cure or correct" demand under the Brown Act. Specifically, you express concern focusing on comments made on a general faculty list serve to which members of the Senate (body rep.) have access. You assert that the comments relate to a matter which will be addressed by the Senate (body rep.) at an upcoming meeting. You requested that the Senate (body rep) take action to address the alleged violation in three ways.

It is acknowledged that communications by members of the Senate (body rep.) outside a noticed meeting can lead to an unlawful serial meeting if the communication comes to involve a quorum (majority) of the body and relates to matters within the jurisdiction of the Senate (body rep.). I do not have evidence that communications on the list serve concerning this topic were actually responded to or accessed by a majority of the members of the Senate (body rep.). However, please note the actions taken which correspond to your three requests:

1. Tabling agenda item, Diversity, Equity, Inclusion Committee till the March 29, 2023 Senate meeting.

Response: As you know per our discussion on March 1, 2023, the item was tabled for discussion at the March 29, 2023 meeting.

2. All officers/senators of the BC Senate refrain from future comments on the bc_faculty listserv regarding the agendized Diversity, Equity and Inclusion committee.

Response: the law permits less than a quorum of the Senate (body rep.) to participate in this forum. However, we have reminded the members to proceed with caution to avoid inadvertently involving a majority in those communications. They are aware there will be an opportunity to fully debate the issues at the March 29 meeting.

3. All officers/senators of the BC Senate refrain from future comments on the bc_faculty listserv regarding a potential referendum vote pertaining to the EODAC charge.

Response: See Response to Item 2. The officers/senators have been reminded of Brown Act issues pertaining to their use of the faculty list serve.

I trust the above is responsive to your request.

Sincerely,

Nick Strobel, President

Bakersfield College Academic Senate

From: Steven Holmes <sholmes@bakersfieldcollege.edu>

Subject: Cure and Correct

Date: March 1, 2023 at 2:11:26 PM PST

To: Nick Strobel <nstrobel@bakersfieldcollege.edu>, Erica Menchaca <erica.menchaca@bakersfieldcollege.edu>

Cc: Tarina Perry <tperry@bakersfieldcollege.edu>

*President Strobel and Presiding Officers/Senators
Bakersfield College Senate*

Dear President Strobel,

This letter is to call your attention to what I believe was a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of an action(s) to be taken by the Bakersfield College Senate

Between Monday February 27, 2023, and Wednesday March 1, 2023, in a private internal listserv, bc_faculty, of which a quorum of BC Senate officers/senators receive, individuals, including one BC Senate officer, made numerous commented regarding the March 1 Senate voting item IX.f Diversity, Equity, Inclusion Committee as well as comments regarding a potential referendum vote on a recently passed Senate agenda item, EODAC charge.

As you are aware, the Brown Act creates specific obligations for meetings, including a serial meeting and creates a legal remedy for illegally taken discussions and actions — namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

Pursuant to that provision (Government Code Section 54960.1), I demand that the Bakersfield College Senate cure and correct the illegally taken action as follows:

1. *Tabling agenda item, Diversity, Equity, Inclusion Committee till the March 29, 2023 Senate meeting.*
2. *All officers/senators of the BC Senate refrain from future comments on the bc_faculty listserv regarding the agendized Diversity, Equity and Inclusion committee.*
3. *All officers/senators of the BC Senate refrain from future comments on the bc_faculty listserv regarding a potential referendum vote pertaining to the EODAC charge.*

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me with no recourse but to seek a judicial invalidation.

Respectfully yours,

Steven Holmes