



BROWN ACT

**Bringing Sunshine to the
Dark Halls of Government**

El Dorado County Counsel

Purpose

- Government officials are elected by the people and govern on behalf of the people
- To facilitate public participation in local government
- To curb misuse of the democratic process by secret legislation

To Whom Does the Brown Act apply?

- All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting. *Government Code §54953.*

Local Agency

- A county , city, general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. *Government Code §54951*

Legislative Body

- The governing body of a local agency or any other local body created by state or federal statute.
- A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.
- In certain circumstances, a board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity.

Government Code §54952

Exceptions to Legislative Body

- A committee created by a single County officer. Does not have authority to take action or advise a legislative body. *California AG 72-67*
- The Brown Act only applies to multi-member bodies not to a single hearing officer. *Wilson v. San Francisco Mun. Ry. (1973) 29 Cal.App.3d 870.*
- Ad Hoc Committees composed solely of less than a quorum of the body which creates the committee.

What is a Meeting

- Any congregation of a **majority** of the members of a legislative body at the same time and location ... to **hear, discuss, deliberate, or take action** on any item that is within the **subject matter jurisdiction** of the legislative body. *Government Code §54952.2*
- The legislative body does not need to take action in order for it to be considered a meeting. *Frazer v. Dixon Unified School Dist. (1993) 18 Cal.App.4th 781*

What Else is a Meeting

- A majority of members of a legislative body shall not, outside of an open and public meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business within the subject matter jurisdiction of the legislative body.
- Also known as the Serial Meeting.

What is a Serial Meeting

- Daisy Chain



- Hub and Spoke



What is not a meeting

- Individual board member discussions with constituents, staff, etc.
- Attending a purely social or ceremonial occasion (e.g., school board at graduation; occasional lunches together after a board meeting).
- Attending a conference (e.g., CSAC), provided the conference is not by invitation only (must be open to the public, who may be required to pay to attend).

What is not a Meeting (cont.)

- Attending a public meeting of some other entity (e.g., Neighborhood Watch).
- Attending a properly noticed public meeting of another legislative body of the same agency (e.g., Planning Commission attending BOS meeting), or of a legislative body of another agency (e.g., BOS attending a city council meeting).
- Attending a public meeting of a standing committee of the body, provided the board members creating a quorum of the full body attend only as observers.

Rules for Meetings

Regular meetings

(Gov. Code §§ 54954, 54954.2)

- Time and place specified in an ordinance, resolution, or bylaws. Excludes advisory or standing committees. Can meet “as needed”
- Post the agenda 72 hours in advance
- Brief general description of each item of business
- Separate public comment item

Rules for Meetings (cont.)

Regular Meetings

- Closed sessions may be held
- No special notice to board members or media is required.
- Must be made available in alternative format for disabled person and describe procedure for accommodations.

Rules for Meetings

Special Meetings

(Gov. Code §54956)

- Can be called at anytime by the chair or majority of the Board
- Post the agenda 24 hours prior
- Items cannot be added to the agenda at the meeting.
- No need to have separate public comment period

Rules for Meetings

Emergency Meeting

(Gov. Code §54956.5)

- only when prompt action is necessary due to disruption or threatened disruption of public facilities.
- 1 hour notice unless dire emergency
- Only closed session allowed is for public security
- Special rules for reports and minutes

Items Not on the Agenda

- No discussion or decision on items not on the posted agenda
- Members or staff may respond briefly to questions posed by the public
- Members may ask staff a question, make a brief announcement, or make a brief report on his/her own activities
- Members may ask staff to report back on an item at a later meeting or place a matter on a future agenda

Public Comment

- Every agenda must allow the public to speak on any item of interest within the subject area of the legislative body
- Public must be allowed to speak on specific item of business before or during the consideration of the item
- May adopt reasonable regulations for public comment, e.g. time limits
- May not prohibit criticism of policies, procedures, programs or services, or of the acts or omissions of the legislative body.

Closed Sessions

- Narrow exceptions to the open meeting rule
- Standard is not whether the subject is sensitive, embarrassing or controversial.
- Permitted only where specifically available by statute
- Discussion must stay within the parameters
- What happens in closed session, stays in closed session

Examples of Closed Sessions

- Personnel (§ 54957(b))
- Labor negotiations (§ 54957.6)
- Pending litigation (§ 54956.9)
- Real property negotiations (§ 54956.8)
- Public security (§54957(a))

Brown Act Violations

- Any individual or the DA may file a civil lawsuit for injunctive relief or to void an action taken in violation of the Brown act (*Gov. Code §54960*)
- Attorneys fees are available to plaintiff
- Any member who attends a meeting where action is taken in violation of the Brown Act where the member intends to deprive the public of information the members knows or should know the public is entitled to, is guilty of a misdemeanor. (*Gov. Code §54959*)