

Brown Act

Presented by:

City Attorney's Office

Open and Public



Ralph M. Brown 1959

Photo courtesy The Modesto Bee

. . . in delegating authority, the people do not give their public servants the right to decide what is good for the people to know and not to know." (California Government Code, Section 54950)

Summary of the Brown Act

1. Meetings of
2. A Local Agency
3. Shall be open and public, and
4. All persons shall be permitted to attend except as otherwise provided by the Brown Act

Narrow Exemptions

Courts and the Attorney General broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions.

Who is subject to the Brown Act?

The Brown Act applies to the legislative bodies of local agencies. These groups include just about every type of decision-making body of a local agency.

Examples include: City Councils, Boards of Supervisors, School Boards. Planning Commissions, Civil Service Commissions. Any volunteer groups, executive search committees, task forces, or “blue ribbon committees” created by formal action of the governing body may be subject to the Brown Act .

Meetings

Definition of a Brown Act Meeting:

A meeting is a gathering of a majority of the Legislative Body to hear or discuss any item of business. A meeting under the Brown Act does not have to include action.

Types of Meetings

Regular - meetings. The Body must formally set the time and place for its regular meetings either in its bylaws, a resolution or some similar formal rule.

Special – meetings called by the agreement of a majority of the Body to discuss a specific issue.

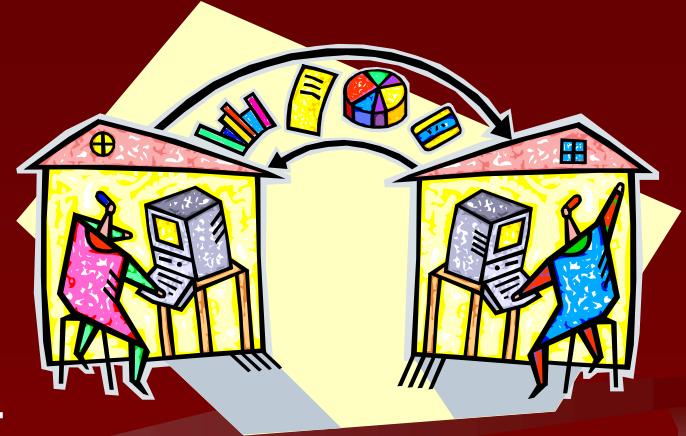
Emergency meetings may be held without complying with 72 hour notice requirements in the event of an emergency situation.

Exceptions

- ***Individual Contacts*** . The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on his or her own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff or a colleague
- ***Conferences***: It is okay to attend a conference together provided you do not discuss business.
- ***Standing Committees***: The attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting).

Serial Meetings

- Serial meetings are not allowed.
- Serial meetings occur when a majority of the members have communicated about an issue and have developed a collective concurrence.
- A collective concurrence is developed when: Members have either directly or indirectly heard each other's opinion on a topic enough to collectively develop or begin to develop an agreement on an issue.
 - ✓ BE WARY OF EMAILS; BLOGS; FACE BOOK PAGES!!!!



Types of Serial Meetings

- Daisy chain meeting:
 - Example: Member Arthur calls member Bill to talk about an issue, Bill calls member Charlie to talk about it, and finally Charlie calls member David. A majority of the members have talked about the topic and a collective concurrence has been established.
- Hub and spoke meeting:
 - Example: For instance, if employee Eric calls member Arthur and discusses a issue to get his opinion with him, then calls member Bill, then calls member Charlie, and then calls member David, telling each what the other has said, a majority of the Body has indirectly discussed the topic without public notice and is therefore in violation of the Brown Act.

Meeting Agendas

All meetings must have a properly noticed and posted agenda.



Agendas

- Posting Requirements: Agendas must be posted at least **72 hours** before the regular meeting in a location freely accessible to the members of the public.
- Content Requirements: The Agenda should contain a brief general description of each item of business to be transacted or discussed at the meeting.

Response to Public

Generally, the public can talk about anything even if not on the agenda, but the legislative body cannot act, respond or discuss items not on the agenda.

Exception: The legislative body may “briefly respond” to comments or questions from members of the public, or direct staff to place the issue on a future agenda.

The Public's Place on the Agenda

Every agenda must allow members of the public to speak on any item of interest, as long as the item is within the subject matter jurisdiction of the legislative body.

The legislative body may adopt reasonable regulations, including time limits on public comments. Such regulations should be enforced fairly and without regard to speakers' viewpoints.

The legislative body may request that persons who wish to speak fill out speaker cards.

Closed Sessions



Without specific authority in the Brown Act for a closed session, all business must be discussed in public.

Disruptive Attendees

- The Body must allow for negative public comment however, willful interruptions of meetings may be addressed.
- One way is for the legislative body to clear the room and continue the meeting. However, all press and other members of the public who were not part of the interruption must be allowed to stay.



For more information

- View the CA Attorney General's publication:
<http://www.oag.ca/system/files/media/the-brown-act.pdf>
- Ask your attorney!