



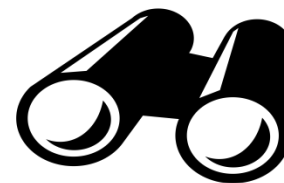
Sacramento Central Groundwater
Authority

February 8, 2017



The Brown Act is California's open meetings law which provides legal minimums for transparency in decision-making.

Decision-making bodies must conduct business in open and in public meetings to ensure that the public is fully informed about local decisions.



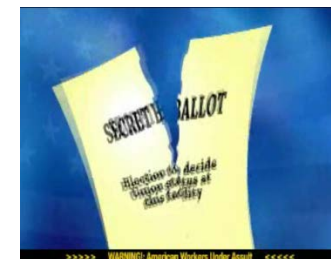
Basic Rights of the Public

- To receive agenda materials
- To notice of meetings
- To attend meetings
- To record meetings

(photography, film, & audio included)

- To comment at meetings
Re: items on & off agenda
(before action is taken)

- To see how each member votes (no secret ballots)
- If sign-in sheet, must clearly state that it is optional
(not required)





The Brown Act Applies to Legislative Bodies of Local Agencies

- Governing bodies:
 - Board of Supervisors
 - City Council
 - Joint Powers Authority
- Subsidiary bodies:
 - Boards
 - Commissions
 - Committees created by charter, ordinance, resolution or formal action of a legislative body
 - Private entities if:
 - created by the legislative body or
 - receive funds from the local agency and includes a member of the local agency's legislative body on its governing board



Committees



- Standing Committee-subject to Brown Act
 - Continuing subject matter jurisdiction or
 - Meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body or
 - Indefinite existence

Committees



- Ad hoc committees-not subject to Brown Act
 - Composed solely of less than a quorum of the body which creates the committee
 - Finite duration and subject matter to be investigated and reported back to parent body

WHAT IS A MEETING?



- A meeting is any situation involving a **majority** of a **decision-making body** in which business is discussed or transacted.
 - Does not require that any action be taken



Examples Of Meetings

- Collective briefings
- Retreats
- Site tours
- Meal gatherings before, during, or after a formal meeting





General Rule

Majority of governing body cannot discuss, deliberate, or take action privately about an issue that may be on the body's agenda no matter how the conversation occurs, whether by

- telephone,
- e-mail or
- intermediary



Unlawful Meetings



- Pre-meetings
- Post-meetings
- Serial meetings





Serial Meetings Prohibited



- Serial meeting is a series of meetings conducted through direct communications, intermediaries or technological devices.
- Simultaneous-A,B,C and D have joint conversation by phone or other means
- Sequential-A to B, B to C, C to D
- Hub and spoke-A to B, A to C and A to D





Serial Meetings: Practice Tips

- Discussing procedural issues (time, date and order of matters on an agenda) is not prohibited.
- Avoid substantive communications (directly or through others) with other members re: items that are on an agenda or likely to be placed on a future agenda
- Individual board member discussions with constituents are permissible
- Staff briefings/rounds where staff speak to individual board members about matters pending before the board are permissible to answer questions/provide information to members IF staff does not communicate the comments of one member to the other members of the legislative body

Permissible Gatherings

- Educational conference
- Social event
- Ceremonial function
- Public meeting of another entity
- Public meeting of a standing committee of the body (must sit with the public & can't speak)

ONLY OK IF a majority of the governing body does not discuss business at the event.



Types of Meetings



- Regular meetings-time and place established by ordinance, resolution or bylaws
- Special meetings-called by the presiding officer or a majority of the board/legislative body
- Emergency meetings-crippling activity, work stoppage or other activity that severely impairs public health/safety-1 hr notice

Notice Requirements



- May only discuss and act on items included on posted agenda
 - 72 hours prior to regular meeting
 - 24 hours prior to special meetings
- Adding items after agenda posted
 - $\frac{2}{3}$ vote of members present and need for immediate action and need arose after agenda posted
- Agenda must be posted on local agency's Internet Web site, if one exists, in addition to other agenda notice requirements



Agenda Requirements

- Agenda must contain a brief description of each item of business to be transacted or discussed (20 words max)
- Closed session must be listed on the agenda (description required)
- Must include time for public comment before or during agenda item





Access to Written Materials

- Agenda and any written materials related to items on agenda that are distributed to a member are public records and should be available at the meeting
 - Emails or other written material relating to an agenda item that is sent by staff directly to a member must be provided to all members
 - Draft staff reports that are provided to individual members for comment/input must be provided to others
 - “On the agenda” includes items not only on upcoming agenda but items which are reasonably foreseeable to be on any future agenda
- Documents provided less than 72 hours before meeting must be made available to the public at the same time as provided to majority of members
- Documents provided by others (public) must be made available promptly after the meeting

Where Can Meetings Be Held?



- Regular meetings must be held within the jurisdiction
- Facility must be open & accessible to the public
- Videoconferencing/teleconferencing may be used if:
 - Location is available to the public
 - Location is identified on the agenda
 - Agendas are posted at all video/teleconferencing locations
 - At least a quorum of the members participating are within the boundaries of the agency's jurisdiction
 - All votes by roll call and
 - Opportunity for public to speak at each location is provided



Closed Sessions

- Very limited circumstances in which closed non-public discussions may occur:
 - Real property negotiations
 - Labor negotiations
 - Personnel: appointment, employment, evaluation of performance, discipline or dismissal of public employee or to hear complaints against an employee
 - Legal advice from counsel regarding pending, potential, or reasonably anticipated litigation
- Closed session discussions and materials remain confidential
- Documents exempt from disclosure under the PRA are also exempt under the Brown Act
- Just because an item is controversial/sensitive does not necessarily mean it can be discussed in closed session

Consequences of Brown Act Violation

- Civil action
 - Injunction against violation
 - Decision voidable (right to cure)
 - Attorneys fees and costs
- Criminal sanctions
 - Misdemeanor

