

The Brown Act

Mono County Counsel's Office

2022

Declaration of Public Policy

► Government Code § 54950

- In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.
- The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

Purpose



- To facilitate public participation in local government decisions
- To curb misuse of the democratic process by public bodies

Application

- The Brown Act applies to:
 - Local agencies

 - Legislative bodies (and subsidiary bodies) and their members

 - Persons elected or appointed to legislative bodies, even prior to assuming office

 - Boards and commissions created by statute or ordinance

Open Meetings

All of the deliberative processes of legislative bodies, including discussion, debate and the acquisition of information, must be open and available for public scrutiny (limited exceptions are discussed later in this presentation).



Public Participation

- Members of the public can attend and testify, without giving their names.
- Information given to the legislative body in connection with an open meeting must be equally available to members of the public.
- Unless it's disruptive, any person may record (video or audio) or broadcast an open meeting.

Voting



- No private votes (except for closed session matters)
- The legislative body must publicly report actions taken and the vote or abstention on that action of each member present during open session – and for specified closed session actions.

Opportunity to Speak

- Every regular meeting agenda must provide opportunity for the public to speak:
 - On items on the agenda
 - Before, or during consideration of, each item
 - On items not on the agenda (but within the jurisdiction of the legislative body)

Reasonable Regulations



- ▶ The legislative body may not:
- ▶ Prohibit a speaker from criticizing the policies, procedures, programs or services of the agency or the acts or omissions of the legislative body.

Public Access

- Agendas or any other writings, unless exempt from disclosure, distributed to all or a majority of the members of a legislative body for discussion or consideration at a public meeting are disclosable to the public upon request.

Meeting

Any congregation of a majority of the members of a legislative body to hear, discuss, deliberate or take action on a matter within the subject matter jurisdiction of the agency



Serial Meetings Prohibited

- Serial meetings – a series of communications, each of which involves less than a quorum of the legislative body, but when taken as a whole, involve a majority of the body's members
 - Conducted through direct communications, personal intermediaries or technological devices to discuss, deliberate or take action on any item of business that is within the SMJ of the legislative body

Examples of Serial Meetings



► Chain (A-B-C)

- A talks to B
- B talks to C

► Hub (A-B, A-C)

- A talks to B
- A talks to C

E-mail deliberations prohibited

A quorum of members may not e-mail each other about a topic within the jurisdiction of the body without violating the Brown Act



Social Media

- AB 992 (2020)
- Under new rules, Board Members may use “publicly open and accessible” social media to:
 - Answer questions posed by the public
 - Provide information to the public
 - Solicit information from the public
- Board Members may not respond to the posts of other Board Members (no “likes” or emojis either)

“Meeting” does not include:

- ~~Contacts by individual board members with the public~~
- Attendance at a standing committee meeting (observation only)
- Purely social or ceremonial occasions
- Attendance at open & noticed meetings of other local agencies
- Attendance at conferences open to the public on issues of general interest to the public or public agencies
- Town meetings or similar gatherings which are open, noticed and organized by a person or organization other than the local agency

But, don't talk shop outside of the program!

Teleconferencing

Government Code § 54953(b)

- ▶ Government Code Rule
- ▶ Rules during COVID
 - ▶ AB 361
- ▶ New rules after COVID
 - ▶ AB 2449



Agendas – Posting & Notice Requirements

- Agendas must be posted in a location freely accessible to the public 24 hours a day **and** on the Agency's website
- Regular meeting - 72 hours prior
- Special meeting - 24 hours prior

Agenda Contents

- Time and place of meeting
- Public comment period
- Brief general description (20 words or less) of every item of business to be discussed or transacted
- For closed session items, there is suggested agenda language in the Brown Act which should be followed

Agendas

With limited exceptions related to emergencies, no action or discussion is allowed on any item not listed on an agenda.

No



THE END

Questions?

