



CPRC DUTIES, BROWN ACT, AND ETHICS TRAINING

City Attorney's Office

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BROWN ACT

"...the Legislature finds and declares that the public commissions, boards and councils and 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**."



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BROWN ACT

- **All meetings**
- **open & public** to **all persons**
- **except** as otherwise provided by law



BROWN ACT Who it applies to

- City council meetings.
- **Commissions**, Committees, and Boards.
- Entities created by a City Council or over which a City Council retains authority.
- **Subcommittees** – this includes **standing** subcommittees, but **not ad hoc** subcommittees



MEETINGS

Any congregation of a majority of the members of the Commission or subcommittee at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter of the Commission or subcommittee.



MEETINGS

Except as part of an open and noticed meeting, the Brown Act **prohibits** any use of direct communication, by personal intermediaries, or technological devices by a majority of the Commission or subcommittee to develop a "collective concurrence" as to action to be taken on an item.



MEETING EXCEPTIONS

ONLY IF group business is **not** discussed:

- Individual contact between a group member and a non-group member
- Conferences open to the public that involve a discussion of issues of general interest to the public
- Community meetings held by another organization addressing a topic of community concern



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MEETING EXCEPTIONS

- Social or Ceremonial Events in the community
- Other Legislative Bodies: Open and publicized meeting of (a) another body of the local agency or (b) a legislative body of another local agency
- Standing Committees: Members may attend subcommittee meeting as observers if they are not members of the standing committee



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SERIAL MEETINGS

- Serial meetings are **prohibited**.
 - A serial meeting is a series of communications, each of which involves less than a quorum of the Commission or subcommittee, but which taken as a whole involves a majority of the members.
- A violation can happen without a collective concurrence.



SERIAL MEETINGS

City staff can:

- **answer questions or provide information**
- matter within the subject matter of the Commission or subcommittee

City staff cannot:

- communicate to members of the Commission or subcommittee the comments or position of any other member or members.



PUBLIC SPEECH

The public has a right to address the legislative body or commission at any meeting on any subject that is within the Commission's subject matter jurisdiction.



AGENDA

- The agenda must specify the time and location of the meeting and a “brief general description” of each item of business to be transacted or discussed.
- If a matter is not on the agenda, it may not be discussed or acted upon.
- Additional requirements apply for closed session, as discussed separately.



EXCEPTIONS

- Brief responses by members of the legislative body and staff to statements or questions posed by the public.
- Questions for clarification. No discussion!
- Referral to staff or other resources for factual information.
- Requests to staff to report back on an issue at a subsequent meeting.
- Requests to agendaize a matter of business for some future meeting.
- Brief announcement by members of the body or staff and brief reports on their activities.



BROWN ACT NOTICE REQUIREMENTS

- 72 hours notice for regular meetings
- 24 hours notice for special meetings



SUNSHINE ORDINANCE

- The Sunshine Ordinance can be found in Title 4 of the Riverside Municipal Code.
 - applicable to the City Council, City Council Standing Committees, and **all** Boards and Commissions, including its standing committees, and
 - requires posting a copy or image of the agenda and all reports and presentations in a location freely accessible to the public no later than 12 days before the date of the meeting.



EXCEPTIONS

- Must take immediate action on an item to avoid a substantial impact that would occur if the matter is deferred.
- The matter is an emergency to avoid a work stoppage, crippling disaster, **or** other activity exists which severely impairs public health, safety, or both.
- See RMC 4.05.050(C) for additional exceptions.



EXCEPTIONS

The local body adopts a motion, by a 2/3 vote of the members present, determining that it was not reasonably possible to meet the additional notice requirements and one of these three conditions are met:

- Need for immediate action to avoid substantial impact
- Need for immediate action due to legislation
- Item relates to purely ceremonial or commendatory action



SUPPLEMENTING THE AGENDA

- No later than 72 hours before a regular meeting & **only if** it is to:
 - Add item due to an emergency
 - Delete item from the agenda
 - Provide additional information or materials **not known** to staff or deemed relevant at the time of original publication
 - Correct errors or omission, or change a stated financial amount
 - Continue item to a future agenda



QUORUM AND MOTIONS

- A majority of the Commission constitutes a quorum for the transaction of business.
- Types of Main Motions
 - Regular
 - Substitute
 - Call the Question
 - Limit the Debate
- Vote: yea, nay, or abstention



CLOSED SESSION

- General rule: all meetings must be noticed & conducted openly & publicly, unless law authorizes
- Purpose of closed session:
 - To avoid revealing confidential information which may compromise the privacy interests and rights of employees
 - To allow full and candid discussion by the legislative body



CLOSED SESSION

- Limitation: **only** for allowable issues
 - Exceptions applicable to CPRC:
 - Performance evaluation, discipline, dismissal, or release of a specific public employee
 - Govt C § 54954.5(e) and 54957(b)
 - To hear complaints or charges brought against the employee by another person or employee
 - Govt C § 54957(b)



CLOSED SESSION

- Preceded by public agenda
- Public comment before closed session
- Before going to closed session, an oral announcement must be made as to which items will be considered
- Only the matter noticed for closed session may be discussed in closed session.
- General topics within the CPRC's purview must be agendized and discussed in open session.



CLOSED SESSION

For performance evaluation of a specific public employee:

- Notice should state the position or the title of the employee being reviewed



CLOSED SESSION

For complaints or charges brought against the employee by another person or employee:

- Employee must be given at least 24 hours' written notice of any closed session convened to hear specific complaints or charges against him/her, **and**
- Employee must be given the option to have the matter heard in open session.



CLOSED SESSION

- Who may attend closed session?

Limited to those with an official role in the meeting and actually necessary to advise or take direction from the body.



CLOSED SESSION

- Third parties who are not agents of the governing body may not attend closed session.
- Except:
 - Witnesses are permitted into closed session to give evidence during a closed session convened to hear charges or complaints against an employee



CLOSED SESSION

- Confidentiality
 - Officials have a fiduciary duty to (MUST) protect the confidentiality of closed sessions discussions and any information disclosed therein
 - Possible sanctions for improper disclosure



VIOLATIONS

Possible sanctions for improper disclosure include:

- Civil injunction to prevent disclosure
- Civil injunction barring attendance at future closed sessions
- Civil injunction against future public disclosures
- Formal accusation filed against member for willful or corrupt misconduct in office

Plaintiffs may seek court costs & attorneys' fees



VIOLETIONS

Possible criminal penalties:

You may be found guilty of a misdemeanor if:

- You attend a meeting where action is taken in violation of the Brown Act

AND

- You intend to deprive the public of information that you know or have reason to know the public is entitled to



THE END

