



BROWN ACT TRAINING

HRB

City Attorney's Office

April 2021



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THE BROWN ACT



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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**."

Cal Gov Code Sections 54950-54963



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BROWN ACT

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



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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



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BROWN ACT

Requirements

- The Brown Act sets minimum procedural requirements for conducting meetings.
- Requires this **Board** and its **standing subcommittees** to adopt rules as to the conduct of business of the Board, which includes the time and place for holding regular meetings.



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MEETINGS

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



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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 Board or subcommittee to develop a "collective concurrence" as to action to be taken on an item.



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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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REGULAR vs. SPECIAL MEETINGS

- **Regular** Meetings are held at established dates, times, and locations
- **Special** Meetings are called to discuss specific topics or items
 - Notices are posted 24 hours prior to meeting
 - Notices shall specify business to be discussed
 - Notices are given to each requesting newspaper, television and radio station



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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 Board or subcommittee, but which taken as a whole involves a majority of the members.
- A violation can happen without a collective concurrence.



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SERIAL MEETINGS

City staff can:

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

City staff cannot:

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



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PUBLIC SPEECH

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



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REGULATING PUBLIC SPEECH

The Board:

- May impose reasonable restrictions upon public comment at meetings so long as such restrictions are not too broad and do not constitute “prior restraints”.
- May prohibit a member of the public from speaking on a matter not within the Board's subject matter jurisdiction or from addressing their comments to a single member rather than the Board as a whole.



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REGULATING PUBLIC SPEECH

3. May ask members of the public to fill out a speaker's card.
 - The public **cannot** be required to give names or sign a register as a condition of attendance.
 - Many cities do ask for names and addresses during oral communications in order facilitate staff responses or the preparation of minutes. This practice is certainly allowable if it is clearly stated as being **voluntary**.



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REGULATING PUBLIC SPEECH

4. May regulate the total amount of time on particular issues and for each individual speaker, subject to the requirements of due process.
 - Time limits of 3-5 minutes are most common.
 - The chair is responsible for enforcing the time limit and depending on the board or commission may also monitor the time.



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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.



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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 agendize 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

In order to act on a matter outside the Sunshine Ordinance, the local body adopts a motion, by a 2/3 vote of the members present, determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements.



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 Board constitutes a quorum for the transaction of business.
- Types of Main Motions
 - Regular
 - Substitute
 - Call the Question
 - Limit the Debate
- Vote: yes, no, or abstain



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 issues allowed by law
 - Exceptions applicable to HRB: Govt C § 54957(b)
 - Performance evaluation, discipline, dismissal, or release of a specific public employee
 - To hear complaints or charges brought against the employee by another person or employee



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 in closed session



CLOSED SESSION

- Only the matter(s) noticed for closed session may be discussed in closed session.
- General topics within the CPRC's purview must be agendaized and discussed in open session.



CLOSED SESSION

For performance evaluation of a specific public employee:

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



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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.



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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.



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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



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CLOSED SESSION

- Confidentiality
 - Officials have a fiduciary duty to **(MUST)** protect the confidentiality of closed sessions discussions and any information disclosed therein
 - 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



VIOLATIONS

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



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THE END



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