

The Ralph M. Brown Act

## GOVERNMENT TRANSPARENCY

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Overview

**Who is Covered?**

**What is a Meeting?**

**Illegal Meetings**

**Notices & Agendas**

**Public Participation Rights**

**Closed Sessions**

**Criminal Penalties & Civil Remedies**

The People's Business

**“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.”** (Gov. Code, § 54950.)

Who's Covered – Legislative Bodies and . . . ?

A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. (Gov. Code, § 54952(b).)

Standing committees. A committee is a “standing committee” if it has “continuing subject matter jurisdiction” or a meeting schedule that has been fixed by formal action. (§54952(b).)

Applies To:

Local Legislative Bodies:

City Councils

City Boards & Commissions

Groups Created by the Council or Boards & Commissions

STANDING COMMITTEE

Less than a quorum of members

- Includes other individuals not on the legislative body
- Advisory or Decision-making
- Continuing jurisdiction over a particular subject matter
- Fixed meeting schedule

BROWN ACT APPLIES!!!!!!

Ad-Hoc Committee

Less than a quorum of members

Comprised solely of less than a quorum of the members

Advisory only

Short-term

No fixed meeting schedule

BROWN ACT DOESN'T APPLY

Who's Covered – Legislative Bodies and . . . ?

Private corporations and LLC's that are created by the City to exercise delegated authority.

Private corporations and LLC's that are funded by the City and have a voting member from the City's legislative body. (§54952(c).)

Councilmembers-elect. (§54952.1.)

Who's Covered – Legislative Bodies and . . . ?

*Ad hoc* committees of less-than-a-quorum are exempt. (§54952(b).)

Short duration

Specific task

Meetings Defined

“. . . any congregation of a majority of the members of a legislative body at the same time and location, . . . to **hear, discuss, deliberate, or take action** on any item that is within the subject matter jurisdiction of the legislative body.” (§54952.2(a).)

“Action Taken” Defined

“Action taken” means:

a collective decision made by a majority

a collective commitment or promise by a majority to make a positive or a negative decision; or

an actual vote by a majority when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance. (§54952.6.)

Applies When:

There is a gathering of a majority (or quorum) of the members of the legislative body to:

1. HEAR Listening to staff reports or watching a movie!
2. DISCUSS Does not require any action be take;
3. DELIBERATE Making decisions, taking action; on any item of business that is within the subject matter jurisdiction of the body

“Serial” Meetings are Unlawful

A majority of the members of a legislative body shall not, outside a meeting . . . , use a **series of communications** of any kind, directly or through intermediaries, **to discuss, deliberate, or take action** on any item of business that is within the subject matter jurisdiction of the legislative body. (§54952.2(b)(1).)

Technology and Serial Meetings

Email

Texting

Notes

Stone Tablets!

Types of Unlawful Serial Meetings

What do a **chain** and a **wagon wheel** have in common?

Examples of Unlawful Serial Meetings

**Chain:** A to B, B to C, C to D

**Violation can occur with no knowledge by A, B, C or D!!**

**Wagon Wheel:** A to B, A to C, A to D

**Violation can occur with no knowledge by B, C or D!!**

SOCIAL MEDIA!!!!!!!!!!!!!!

AB 992, eff. Jan. 1, 2021, until Jan. 1, 2026

New Law provides a stricter rule regarding communications on social media platforms because AB 992 prohibits communications even between two members of a legislative body

Applies to internet-based social media platforms that are "open and accessible to the public." Includes (without limitation): Facebook, Twitter, Instagram, Snapchat, etc

**BRIGHT LINE RULE:** A member cannot respond directly to any communication on an internet-based social media platform regarding a matter within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member.

Permitted

A member of a legislative body may communicate with the public using an internet-based social media platform that is open and accessible to the public regarding a matter that is within the subject matter jurisdiction of that body.

A majority may not use an internet-based social media platform to discuss agency business.

A member of a legislative body may use social media to discuss personal matters with another member of a legislative body

#### Prohibited

A majority may not use an internet-based social media platform to discuss agency business.

A member may not respond directly to any communication posted or shared by another member regarding agency business on an internet-based social media platform.

**\*\*Includes: NO likes, thumbs up, emojis, or other symbols.**

#### Meeting Exceptions: Unilateral Briefings

Staff may have separate conversations or communications with members, outside of a meeting, in order to answer questions or provide information.

Staff may not communicate the comments or position of any other member of the legislative body. (§54952.2(b)(2).)

#### Meeting Exceptions: Lobbying

Individual contacts or conversations between a member of a legislative body and any other person. (§54952.2(c)(1).)

Person may not act as an intermediary between members of the legislative body.

#### Meeting Exceptions: Community Meetings

Majority attendance at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency.

No sidebar discussions.

#### Meeting Exceptions: Other Legislative Bodies

Majority attendance at an open and noticed meeting of another local agency legislative body.

No sidebar discussions.

#### Meeting Exceptions: Social and Ceremonial Occasions

Majority attendance at a purely social or ceremonial occasion.

No sidebar discussions.

More Exceptions

The Brown Act does not apply to meetings of public agency employees (i.e. staff meetings).

The passive distribution of a document to body members like a memorandum from staff, or an opinion from legal counsel, does not constitute a meeting.

Teleconferenced Meetings

Teleconference means audio, video or both.

City must post agendas at all teleconference locations.

**Each teleconference location shall be identified and accessible to the public.**

A quorum shall participate from locations within the City. (§54953.)

Notices and Agendas Overview

Agendas Required

Discussion is Generally Limited to Agenda Items

Matters May Be Added to the Agenda Only in Rare, Urgent Situations

Meetings Must Be Held in the City Except in Limited Circumstances

Meeting Halls Must Be Non-Discriminatory and Free of Charge

Special Meeting Rules

Agendas Required

At least 72 hours before a regular meeting, the City shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.

Agenda description generally need not exceed 20 words.

The agenda shall specify the time and location of the regular meeting and shall be posted in a publicly accessible location and on the City's website. (§54954.2(a)(1).)

## Discussion is Generally Limited to Agenda Items

No action or discussion shall be undertaken on any item not appearing on the posted agenda. (§54954.2(a)(2).) \*\*The Los Angeles County District Attorney's office found that the Inglewood City Council violated state law in connection with a special meeting in June 2017 to approve an agreement with a Clippers-controlled company to explore building an arena in the city, but the D.A. declined to take any action-

But . . . five exceptions

### Certain Matters Need Not Be on the Agenda

Members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights.

A member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. (§54954.2(a)(2).)

### Certain Matters Need Not Be on the Agenda

A member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may:

provide a reference to staff or other resources for factual information

request staff to report back to the body at a subsequent meeting concerning any matter, or

take action to direct staff to place a matter of business on a future agenda. (§54954.2(a)(2).)

### Matters May Be Added to the Agenda Only in Rare, Urgent Situations

Matters may be added upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that:

there is a ***need to take immediate action*** and

that the need for action ***came to the attention of the local agency after the agenda was posted***. (§54952.2(b)(2).)

### Special Meetings

A special meeting may be called at any time on 24 hours notice by the presiding officer, or by a majority of the members of the legislative body

City must deliver written notice to members and each local newspaper and radio or television station and post a notice on the City's Website.

The notice must specify time, location and business to be transacted or discussed.

No other business shall be considered by the legislative body. (§54956.)

#### Attendance Conditions are Prohibited

A member of the public shall not be required, as a condition to attendance, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

Attendance lists or speaker cards must state that the **signing or registering is voluntary**, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document. (§54953.3.)

#### Right to Record Meetings

Any person shall have the right to record a public meeting with an audio or video recorder or a still or motion picture camera

Legislative body may make a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the City is a public record.

Any inspection of an audio or video recording shall be provided without charge on equipment made available by the City. (§54953.5(a)&(b).)

#### Public Participation: Regular vs. Special Meetings

Every agenda for regular meetings must allow the public to directly address the legislative body on any item of interest, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body.

No action shall be taken on any item not appearing on the agenda



Every special meeting notice must allow the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item. (§54953.3(a).)

#### Rules for Public Participation

The legislative body ***shall not prohibit public criticism*** of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. (§54953.3(b)&(c).)

Public comment is not a debate. Avoid back and forth.

#### Meeting Disruption

If a meeting is willfully interrupted by a group so as to render orderly conduct of the meeting “unfeasible,” and order cannot be restored by removal of the individuals who are interrupting, the legislative body may order the meeting room cleared and continue in session.

Only matters appearing on the agenda may be considered in such a session.

Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session. (§54957.9.)

#### Closed Sessions

Personnel matters-Must have legal authority to appoint/terminate.

Litigation: Anticipated, pending, or initiation-Must have legal authority to direct the course of the litigation.

Labor negotiations-Must have legal authority to negotiate.

Real property negotiations-Must have legal authority to negotiate.

Public security threat-Must have legal authority to determine security solutions

#### 2021 Resolution

a. Actively promoting the total integration and participation of persons with disabilities into all areas of economic, political, and community life.

b. Serving as a coordinating body, for the purpose of receiving input from citizens on the needs and concerns of the disabled community, formulating and recommending solutions to these identified needs and concerns, and conveying such recommendations to the appropriate City departments.

c. Working with City staff to create conditions to establish policies and practices, and to develop programs and services, which will facilitate the full integration and participation of persons with disabilities into all areas of economic, political, and community life. d. Serving as a stakeholder in the design, planning, and implementation of City projects and programs to facilitate accessibility for persons with disabilities.

#### 2021 Resolution

e. Providing oversight for monitoring compliance with such codes, ordinances, and statutes that affect access to, or use of, City facilities, programs, and services by persons with disabilities.

f. Providing advice regarding the setting of priorities for projects to remove barriers and improve access within the City's public rights-of-way.

g. Identifying opportunities to educate the public about disability and disability access issues within the community

Questions?

Open!

Transparent!

Sunshine!