



# The Ralph M. Brown Act



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County of Los Angeles  
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# The Right of Access

Cal. Gov. Code, § 54953(a).

“All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.”

# Applies Broadly

## **Legislative Bodies**

- Boards of Supervisors,
- City Councils,
- School Boards, and
- Boards of Trustees of Special Districts.

## **Appointed Bodies:**

- Planning Commissions,
- Civil Service Commissions, and
- Other subsidiary committees, boards, and bodies.

# Meeting

A gathering of a majority (or quorum) of the members of the legislative body at the at the same time and location to:

- **HEAR**
- **DISCUSS**
- **DELIBERATE**
- **TAKE ANY ACTION**

# Types

- **REGULAR MEETING:** occurring at the dates, times, and location set by resolution, ordinance, or other formal action.
- **SPECIAL MEETING:** called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda.
- **EMERGENCY MEETING:** limited class of meetings held when prompt action is needed.
- **ADJOURNED MEETING:** regular or special meetings that have been adjourned or re-adjourned to a time and place specified.

# Exceptions

- **Individual Contacts**
- **Conferences**
- **Community Meetings**
- **Other Legislative Bodies**
- **Social Or Ceremonial Events**
- **Standing Committees**
- **Grand Jury Testimony**

**NOTE: A majority of members do not discuss business among themselves.**

# Subsidiary Bodies

## 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.

## Ad-Hoc Committee

- Less than a quorum of members;
- Advisory only;
- Short-term;
- No fixed meeting schedule.

# Agenda

- **DETAIL:** Agenda items must have enough detail to give the public a reasonable idea of what will be discussed or acted upon. If it's not on the agenda, it cannot be discussed.
- **LOCATION:** List location of the meeting and the location for document inspection.
- **NOTICE:** Regular Meetings must be posted 72 hours before. Special Meetings must be posted 24 hours before.

# Adding to the Agenda

After the agenda is posted, an item may be added only if one of the following occurs:

- **EMERGENCY:** when prompt action is needed because of actual or threatened disruption of public facilities (only applies to bodies with ultimate decision-making authority).
- **NEW ITEMS:** unknown at the time of the original posting and immediate action needed.



# Public's Rights

## **Members of the public have the right to:**

- Not give their name as a condition precedent to attend;
- Record the meeting;
- Comment and Criticize.

## **Members of the public must be allowed to comment on:**

- Any agenda item, before or during the consideration of the item; and
- On any matter within the Board's jurisdiction.

# Public Comment

**Fair and reasonable rules may be adopted to assist the body in processing comments from the public.**

- Regulating time is OK if reasonable.
- Regulating content is not OK.
- At least twice the allotted time should be provided to a member of the public who utilizes a translator, unless simultaneous translation is utilized..

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

# Public's Right to Documents

**Public can make a standing request for copies of agenda materials:**

- Request must be made in writing;
- Request is effective for one year;
- Subject to fees for copying and postage;
- Failure to send packet can invalidate action

# Closed Session

- Meeting in closed session is allowed only for specific matters as expressly authorized by statute.
- Closed session items must be described on the agenda.
- Special announcements must be made before and after the closed session.



# Closed Session Topics

- **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; and
- **REAL PROPERTY NEGOTIATIONS:** Must have legal authority to negotiate.

# Serial Meetings

- A serial meeting is typically a series of communications (face-to-face, telephone, e-mail, text, social media), each of which involves less than a quorum of the body, but which taken as a whole, involves a majority of the body's members.
- General Rule: A Majority may not use a series of communications, directly or through intermediaries, to discuss agency business.

# Social Media

- **RULE:** Provides a stricter rule regarding communications on social media platforms because AB 992 prohibits communications even between two members of a legislative body.
- **APPLICABILITY:** 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 engage in “separate” communications 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, provided that a “majority” do not discuss among themselves business of a “specific nature.”
- 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 (No likes, thumbs up, emojis, or other symbols).



# Teleconferencing Traditional Rule

- At least a quorum of the legislative body must participate from locations within the local agency's jurisdiction.
- An agenda must be posted at each location.
- The address of each location must be listed in the notice and agenda, including a room number, if applicable.
- Each location must be fully accessible to the public.
- Each location must be ADA-compliant.
- The public's right to testify at each location must be ensured.
- All votes taken must be by roll call.

# Teleconferencing State of Emergency

- During the COVID-19 State of Emergency, the Governor issued several Executive Orders suspending provisions of the Brown Act, which allowed local agencies, including the Board and County commissions, to conduct their meetings by teleconference without having to meet certain requirements.
- The Executive Orders expired on September 30, 2021; however, Assembly Bill (AB) 361, passed in 2021, allows local agencies, commissions, and boards to teleconference during a proclaimed state of emergency when certain conditions are present.
- AB 361 expired on December 31, 2023. However, AB 557 proposes to preserve the modified remote procedures under AB 361.

# AB 2449

- **TRADITIONAL BROWN ACT:** A quorum of members must attend in person at a singular location and an agenda must be posted at each location;
  - **EXCEPTION:** The teleconferencing member(s) must have “just cause” or “emergency circumstances” justification;
  - **ACCESS:** legislative body must provide access to a two way audio-vision platform or a two way telephonic service;
  - **LIMITED:** No more than three consecutive months, or for 20% regular meetings in a calendar year.
- **JUST CAUSE:**
    - Childcare or caregiving issues;
    - Contagious illness;
    - Physical or mental disability;
    - Travel for legislative body’s business
  - **EMERGENCY:** A member must request the legislative body allow them to appear remotely due to emergency circumstances and the legislative body must take action to approve the request.
  - **EMERGENCY DESCRIPTION:** The legislative body must request a general description of the circumstances relating to the member's need to appear remotely.

# Violating the Brown Act

## **CRIMINAL PENALTIES:**

- Knowing violations are a misdemeanor.

## **CIVIL REMEDIES:**

- Any interested person may bring a lawsuit for declaratory and injunctive relief.
- Body has chance to cure and correct.
- Certain illegal action may be voided.
- Costs and attorney fees awarded.



# Questions