



What is the Brown Act?

- AKA Sunshine Law or Open Meetings Law
- Enacted by legislature in 1953
- Codified in Government Code §§ 54950 et seq.
- Guarantees the public's right to attend and participate in government
- Promotes accountability of public officers
- Allows for public oversight and understanding

Overview of Brown Act Issues

- Applicability
- Requirements
 - Agenda Posting Requirements
 - How meetings are conducted
 - Exceptions or items that may be handled in closed sessions
- Remedies and penalties for violations

Who Does the Brown Act Apply To?

- Public commissions, boards and councils
- Commissions created by the Board of Supervisors
 - Committees created by legislative bodies
 - Standing versus ad hoc committees

What is a meeting?

- A gathering of a quorum of the legislative body
 - 50% of members plus one (rounded up)
 - Serial meetings
 - Teleconferencing
- Where public business is transacted or discussed
 - Not purely ceremonial or social occasions
 - *Sacramento Newspaper Guild v Board of Supervisors*
263 Cal. App 2d 41 (1968)

Teleconferencing

- Different locations connected by audio and/or video
- Must be fully accessible to the public
- Voting must be by roll call

Agenda Requirements

- Posting
- Notice
- Public Comment
- Public Availability of Agenda Materials

Agenda Content

- Description must be sufficient to give the public a reasonable idea of what will be discussed
 - Vague general language is not sufficient
 - Allows public to decide whether to attend
- Generally 20 words or less
- Public comment entry
- Meeting is limited to agenda items
 - 2/3 vote for special circumstance when immediate action is required

Agenda Notice Requirements Vary for Different Meetings

- Regular is posted at the site of the meeting 72 hours in advance.
- Special is posted at the site of the meeting 24 hours in advance.
- Emergency is one hour telephonic notice
- For Dire Emergencies notice may be contemporaneous with the meeting

Public Availability of Agenda Materials

- Public entitled to copies of agenda packet/documents associated with the agenda items
- Public can make standing request for copies of agenda materials
 - Writing
 - Effective for one year
 - Subject to fees for copying and postage
 - Failure to send packet can invalidate action

Place of Meeting

- Must be held within agency's geographical jurisdiction
 - Limited exceptions
- Can not be held in a place that discriminates or charges a fee or requires a purchase
- ADA compliant

Conducting the Meeting

- Can not require a person to sign in as a condition of attendance
- Can not prohibit use of cameras, tape recorders or broadcasting
- Any tape or film made by the legislative body must be available for inspection

Public Comment

- Opportunity to speak on agenda items before or during the body's consideration of the item
- Opportunity to speak on any item within the body's subject matter jurisdiction
- Reasonable rules can be adopted
- Chair may clear room in the event of public disruption and proceed with press present

Closed Session

- All items must be listed on the agenda
- Must publicly announce item to be discussed in closed session
- Must publicly announce action taken in closed session

Closed Session Major Exceptions

- Personnel matters (§ 54957)
- Public security threat (§ 54957)
- Anticipated or pending litigation (§ 54956.9)
- Initiation of litigation (§54956.9)
- Labor negotiations (§54957.6)
- Real estate negotiations (§ 54956.8)
 - *Shapiro v San Diego City Council*
96 Cal. App.4th 904 (2002)

Confidentiality of Closed Session

- May not disclose information obtained in closed sessions to any person not entitled to receive it
 - Unless disclosure is authorized by legislative body
- Injunctive relief to prevent disclosure
- Penalties for improper disclosure
 - Disciplinary action for willful disclosure
 - Require prior training or notice
 - Referral to Grand Jury
- Exceptions

Closed Session Minutes

- Keeping a minute book is discretionary (Government Code § 54957.2)
 - Confidential
 - Members may review minutes but cannot have copies
- Minutes of improper closed session are not confidential.

Penalties & Remedies

- Civil action to stop or prevent violations
 - Notice of corrective action is prerequisite
- Civil action to declare action null and void
- Court costs including reasonable attorney fees
 - *L.A. Times v Board of Supervisors*
112 Cal. App. 4th 1313 (2003)
- Misdemeanor for knowing violations