

Brown Act Basics

Prepared by the MTC/ABAG Office of General Counsel
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1. What is the Brown Act and who does it apply to?

- The Ralph M. Brown Act (Cal. Government Code Section 54950, *et seq.*) is California’s open meetings act which requires that ***all “meetings” of a “legislative body” are open and accessible to all members of the public.***
- Applies to “legislative bodies”:
 - Nearly all committees, boards, councils, and other bodies that serve public agencies.
 - Does not apply to ad-hoc committees – short-term sub-committees that focus on a specific issue and report back to the main body.
- Applies to “meetings”:
 - A quorum or majority of the legislative body in the ***same place, at the same time;***
 - Where they ***hear, discuss, and/or deliberate*** on any ***agency business.***
 - Includes online spaces – message boards, social media, etc.
 - Not limited to gatherings where the body takes official action – discussion or hearing is enough.
- Exceptions:
 - Some conferences that are open to the public.
 - Purely social gatherings – birthdays, holiday party, etc. – as long as agency business is not discussed.
 - Attending meetings of other bodies.
 - Individual contacts – BUT, see ***serial meetings***, below.

2. Remote participation and teleconferencing

- Council members may join meetings online (via Zoom or phone) if following specific criteria and if approved by the Council.
 - Four methods of remote participation – “anytime”, disability accommodation, just cause, and subsidiary body.
- “Anytime” remote participation
 - Can be used by any member an unlimited number of times.
 - Requires:
 - Remote location must be ***open and accessible to the public for the entire duration of the meeting.***
 - Public must be able to interact with main body the same way as the council member.
 - Location must be identified on the agenda.

- Agenda must be posted at location following same posting rules as required for the type of meeting – 72 hours in advance for regular meetings; 24 hours in advance for special meetings.
- Remote participation for members with disabilities
 - Members with disabilities may participate remotely *without* following the requirements of “anytime” – do not have to open location to public, and do not need to post agenda.
 - Requirements:
 - Must use both audio and visual (Zoom with camera on) unless disability prevents this.
 - Must disclose orally whether there are any individuals age 18 or over in the same room, and the member’s general relationship with those individuals.
 - Member participating this way counts as attending the meeting in person for all purposes.
- Just cause remote participation
 - In specific cases of personal or family emergencies, or other reasons beyond the member’s control, the member may still participate remotely *without* following the “anytime” requirements.
 - Requirements:
 - Quorum of body must be present *in person, at a single location*.
 - Must use both audio and visual (Zoom on camera).
 - Must disclose orally whether there are any individuals age 18 or over in the same room, and the member’s general relationship with those individuals.
 - Can only be used by a member twice per year.
 - Can only be used for one of the following reasons (member must specify which one applies): childcare/caregiving, contagious illness, other illness, travel on official business, immunocompromised family member, physical or family emergency, or military service obligations.
- Subsidiary body remote participation ***can only be approved for use beginning with the April meeting; cannot be used for March meeting***
 - Can only be used once officially approved by both MTC and ABAG.
 - Once approved, members participating this way can do so *without* following the “anytime” requirements.
 - Requirements:
 - The body must designate one location as the “official” in-person location (375 Beale).
 - Members must use both audio and video (Zoom with camera on), unless there is a reason video will not work.
 - If video does not work due to technological issues (“unstable internet” warning), member can announce the need to go off camera and then turn it off.
 - Must disclose orally whether there are any individuals age 18 or over in the same room, and the member’s general relationship with those individuals.

Agendas are your roadmap

- Meetings must follow agenda with no detours.
- Cannot discuss non-agenda items at length.
- Cannot vote on items not explicitly labeled as action items.
- Can refer items to staff for a future agenda if needed.
- Cannot respond at length to public comment.

Serial meetings

- Serial meetings are *prohibited*.
- “Serial meeting” – a series of individual communications that develop a concurrence or understanding of an item of agency business among a quorum or majority of members, including:
 - Asking each other questions or discussing items on an upcoming agenda.
 - Clarifying your position on an item to other members.
 - Facilitating a compromise on an issue.
- Types of communications that could be serial meetings:
 - “Chain” – Council Member 1 talks to Council Member 2 about their position, then Council Member 2 talks to Council Member 3 about their position, and so on until a quorum or majority is involved.
 - “Hub and spoke” – Council Member 1 talks to Council Member 2 about their position, then Council Member 1 talks to Council Member 3 about their position, and so on until Council Member 1 has spoken to a quorum or majority of the body.
 - “Firework” – One council member broadcasts their position in a manner intended to reach other members (e.g., “reply all” to an email; social media messages to members who are followers).
- Can I still talk about my work on social media?
 - Yes, you can still use social media to answer questions, provide information to the public, or to solicit information from the public regarding an issue.
 - BUT – cannot use social media to discuss same issues among a quorum or majority of the council.
 - Brown Act specifically *prohibits you from commenting on or interacting with other members’ social media posts regarding council business*.
 - Best to “unfriend” or “unfollow” all members.