The Brown Act is the most important open-meetings law for local governments in California. Compliance with the Brown Act is a critical role for the governing body. *Note: This is only a summary of key provisions of the Act, rather than a detailed overview of all its requirements.

**APPLICATION**

The Brown Act applies to all “legislative bodies.”

“Legislative body” means:

- Governing Bodies: The governing body of a local agency or any other local body created by state or federal statute.
- Subcommittees and Commissions: All subcommittees and commissions created by formal action of the legislative body, whether temporary, decision making, or advisory. There is one exception for ad hoc advisory committees consisting solely of less than a quorum of the legislative body.

**MEETINGS**

**Definition**

A meeting is any congregation of a majority of the legislative body that meets at the same time and place to hear, discuss, or deliberate upon any item within the body’s subject matter jurisdiction.

A “meeting” includes any use of direct communication, intermediaries, or technological devices such as e-mail.

**Types of Meetings**

A regular meeting is the fixed formal meeting of the legislative body. Agendas must be posted at least 72 hours in advance of the meeting.

A special meeting may be called at any time either by the presiding officer or a majority of the legislative body by delivering a written notice to each member and to each local newspaper of general circulation and radio or television station requesting such notice. The notice must be delivered and the agenda posted at least 24 hours before the meeting.

**AGENDAS**

Agendas must contain a brief general description of each item of business to be transacted or discussed at the meeting. All agendas must be posted in a location at the agency offices that is freely accessible to the public, and also on the agency’s website.

School districts must allow members of the public to place matters directly related to school district business on the agenda. The school district can reasonably control when and how the item is placed on the agenda.

**Action**

A legislative body may not take action on an item not appearing on the agenda, except:

- To respond to statements made or questions posed by the public during the public comment section;
- To ask questions of staff or the public for clarification;
To ask staff to report back on an item not appearing on
the agenda at a subsequent meeting; or
To make a brief announcement.

Public Comment
Each regular meeting agenda must provide an opportunity
for public comment on any agenda item and on any item of
interest to the public within the subject matter jurisdiction of
the legislative body. For special meetings, the agenda must
provide an opportunity for members of the public directly
to address the legislative body concerning any item on the
agenda; comments on items not on the agenda need not be
allowed.

Inspection
Writings distributed to all or to a majority of the legislative
body by any person for consideration at a public meeting
are public records. Documents distributed to all or a majority
of the legislative body less than 72 hours before a regular
meeting must be made publicly available without delay.
Writings given to the Board at the meeting by staff must
be available at the meeting, and writings distributed at the
meeting by others must be available after the meeting. The
terms “writing” and “document” include electronic records
such as e-mail.

In addition, every agenda must state the location of an of-
office at the agency where members of the public may inspect
these documents.

CLOSED SESSIONS
Closed sessions are meetings conducted in private without
the attendance of the public. They are permitted for specific
purposes; courts construe the statutory basis for closed ses-
sions narrowly. Generally, to preserve the confidentiality of
closed sessions, only essential staff should attend a closed
session.

Primary Types of Closed Sessions
> To instruct negotiators on real property transactions
> To instruct labor negotiators
> To discuss “pending litigation” with agency attorneys
> To consider the appointment, employment, evaluation,
discipline, or dismissal of a public employee
> Employee Complaints or Charges
Before holding a closed session to hear complaints or
charges brought against an employee, the employee
must be delivered written notice of his or her right to have
the complaints or charges heard in open session at least
24 hours before the meeting.
> Meetings regarding threats to security of public buildings
or essential public services
> Meetings among Joint Powers Agencies formed for insur-
ance pooling and local agency Self-Insurance Authorities
to consider liability issues
> Student matters such as discipline or records challenges

Announcements from Closed Session
> After each closed session, the legislative body must report
in open session certain actions taken in closed session,
and the vote of each member, including:
> Approval of an agreement concluding real estate negoti-
atations
> Approval for legal counsel to defend, initiate, or settle
litigation
> Disposition of claims
> Action to appoint, employ, dismiss, release, accept resig-
nation of, or affect the status of any employee
> Approval of labor negotiation agreements

Reporting out may be deferred under certain circumstances,
usually because it is contingent upon approval by another
party.

Closed Session Confidentiality
No person may disclose confidential information that has
been acquired by being present in an authorized closed
session to unauthorized persons, unless the legislative body
formally authorizes disclosure of confidential information.
“Confidential information” means a communication made
in a closed session that is specifically related to the basis for
the closed session.

Penalties and Enforcement
A member who attends a meeting where action is taken in
violation of the Brown Act, and where the member intends to
deprive the public of information which the member knows
or has reason to know the public is entitled, is guilty of a
misdemeanor.

For legal advice on a particular Brown Act
issue, or for any questions, please contact us at
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