



Long Beach Unified School District

The Ralph M. Brown Act Rules Governing Committee Members

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The Brown Act/Background

- The Ralph M. Brown Act, also referred to as the “Open Meeting Act”, was enacted in 1953. (Gov. Code §§ 54950 – 54963)
- All of the deliberative processes of legislative bodies, including discussion, debate, and the acquisition of information must be open and available for public scrutiny, subject to certain very narrow exceptions.
- All meetings of a legislative body shall be open and public, and all persons shall be permitted to attend any meeting of a legislative body of a local agency except as otherwise provided. (Gov. Code § 54953(a))

- Purposes of the Brown Act
 - To ensure that the governing bodies of local public agencies conduct the people's business in an open and transparent fashion (Gov. Code § 54950); and
 - To keep the public informed of the actions, debates and views of locally elected representatives; and
 - To provide the procedural framework for local legislators to meet, debate, act and listen collectively to their constituents.

Legislative Body

- A “legislative body” includes governing boards of local agencies and their committees and commissions. (Gov. Code § 54952(a) and (b).)
 - Also includes advisory committees that are standing committees that have continuing subject matter jurisdiction or fixed meeting schedules. (Gov. Code § 54952)
 - Established by charter, ordinance, resolution, or formal action of the Board. (Gov. Code § 54952)
 - Standing committees which have a continuing subject matter jurisdiction, or a meeting schedule fixed by formal action of the governing board are “legislative bodies” for Brown Act purposes. (Gov. Code § 54952(b))

- Applies to a “member of the legislative body of a local agency” which includes “[a]ny person elected to serve as a member of a legislative body who has not yet assumed the duties of office...” Once elected, officials are expected to know the requirements of the Brown Act, even before taking office. (Gov. Code § 54952.1)

- A “meeting” means any congregation of a majority of members of a legislative body at the same time and location (including teleconferencing) to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body (Gov. Code § 54952.2(a)); or

Meetings Cont.

- Any use of direct communication, personal intermediary, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence (Gov. Code § 54952.2), including:
 - Telephone, email, Facebook, Twitter, Instagram, blogs, etc.;
 - Communication through an intermediary.

Meetings-Substance v. Procedure

- Procedural or administrative matters do not constitute meetings if they do not involve substantive discussions of a topic within the subject matter of the Board/Committee
 - Examples: Communication limited to providing information (i.e., Superintendent's weekly report) or procedural or administrative matters (scheduling meetings, determining agenda and time allotted to each of them)

Meetings-Developing a Collective Concurrence

- Test: If discussion can potentially contribute to developing a collective concurrence, it is likely to constitute a “meeting” for Brown Act purposes.
- Even if a Board/Committee member does not participate in a discussion, the mere act of listening may contribute to developing a collective concurrence.

- **Common scenarios that are likely meetings:**

- **1. Group Texts.** Text messages in which a majority of the Board/Committee is copied;
- **2. Hub of a Wheel.** Consecutive conversations through intermediary to poll the Board/Committee;
- **3. Daisy Chain.** Consecutive conversations from one person to another to poll the Board/Committee;
- **4. Internet/Blogs.** List-serves in which a majority of the Board/Committee may post comments and responses such that deliberations, discussions or opining can be viewed as a path to a “concurrence.”

● Common scenarios that are likely NOT meetings:

- The following scenarios are specifically identified in Gov. Code § 54952.2(c) as not being meetings, *“provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.”*
 - [No Quorum] (1) *Individual contacts or conversations between a member of a legislative body and any other person...*
 - [General Meetings] (2) *The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body...*

Cont...

Meetings cont.

- **[Community Meetings]** (3) The attendance of a majority of the members of a legislative body 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...
- **[Public Entity Meetings]** (4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency...
- **[Parties]** (5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion...
- **[District Meetings]** (6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

Meetings-Conduct

- 1. Regular meetings at least monthly with fixed time and place (Not applicable to an Oversight Committee)
- 2. Meeting place must be within District boundaries, with limited exceptions (Gov. Code § 54954)
- 3. Meeting place must be accessible to public (nondiscriminatory, accessible to disabled, no payment or purchase required)
- 4. Teleconferencing: must be from publicly accessible location; at least quorum must be within the District boundaries
- 5. Any person attending may videotape, unless disruptive

Notice of Meetings

- The legislative body must post an agenda containing the date, time and location of the meeting and 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, at least 72 hours before a regular meeting. (Gov. Code § 54954.2(a)(1))
- No action or discussion shall be undertaken on any item not appearing on the posted agenda, except for very limited circumstances (e.g., emergencies). (Gov. Code § 54954.2(a)(3))

Agenda Requirements

- A. 72 hours before regular meeting; 24 hours before special meeting
- B. Sufficient detail to allow public to determine whether to participate (“brief general description”)
- C. Exceptions to standard agenda requirements
 - 1. Emergency (majority vote);
 - 2. Need to take immediate action that arose after agenda posted;
 - (2/3 vote, unanimous if less than 2/3rds of Board/Committee present)
 - 3. Responding to questions;
 - 4. Asking for clarification;
 - 5. Making a brief announcement or brief report of activity.

Violations of the Brown Act

- A. Misdemeanor liability exists if there is “intent to deprive public” (Gov. Code § 54959)
- B. Public can sue to stop violation of Brown Act
- C. Require taping of closed session possible remedy
- D. Agency must be given opportunity to cure
- E. Nullification of action taken in violation



Thank You

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