



**COUNTY** *of* **VENTURA**

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# **BROWN ACT**

*Ventura County Animal Services Commission*

“The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for the people to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” Cal. Gov. § 54950.

*- This language has been in the Act since 1953.*

# Purpose of the Brown Act

To ensure that almost all aspects of the decision-making process of legislative bodies of local agencies are conducted in public and open to public scrutiny.

*“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.” (Gov’t Code §54953)*

# Key Principles of Brown Act

- It's the public's business
- Public only trusts a process it can see



# Transparency Rules

- Conduct business in open and publicized meetings
- Allow public to participate in meetings

## INSTITUTE for LOCAL GOVERNMENT

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### The ABCs of Open Government Laws

The underlying philosophy of the open government laws is that public agency processes should be as transparent as possible. Such transparency is vital in promoting public trust in government. Conducting government openly and transparently is an opportunity to include the public in decision-making processes and demonstrate that the agency has nothing to hide.

This concept of governmental transparency is so important to the public that some 83 percent of voters supported adding it to California's constitution.

#### **CALIFORNIA'S TRANSPARENCY LAWS REQUIRE PUBLIC OFFICIALS TO:**

- A. Conduct the public's business in open and publicized meetings, except for the limited circumstances under which the law allows closed sessions.**
- B. Allow the public to participate in meetings.**
- C. Allow public inspection of documents and records generated by public agencies, except when non-disclosure is specifically authorized by law.**

This pamphlet summarizes these three requirements for local officials in broad terms. For information about how these requirements apply in any given situation or more information about this area of the law in general, local officials are encouraged to consult with their agency attorneys.

The law also requires certain local officials to be transparent about their personal financial interests and relationships. For more information about these requirements, please see the Institute's bookmark entitled "Key Ethics Law Principles for Local Officials" and *A Local Official's Reference on Ethics Laws*. Both are available at [www.lsg.org/trust](http://www.lsg.org/trust).

## **The Brown Act applies to “Legislative Bodies”**

- Governing body of the agency
- Subordinate boards or commissions created by formal action of the governing body
- Standing committees with regular meeting schedule and continuing subject matter jurisdiction

# Brown Act

## Conducting Business at Open Meetings

All meetings of the Legislative Body of a Local Agency shall be open and public and all persons shall be permitted to attend

- Government Code §54953



# Brown Act

What is a meeting?



- Any congregation of a majority of the members at the same time and location to hear, discuss, deliberate, or take action upon any matter under their jurisdiction.
- No action needs to be taken for a meeting to occur; conversations or deliberations about issues confronting their agency is sufficient.
- Includes “workshops,” “study sessions,” and retreats.



# Brown Act – Meeting Exceptions

When is a meeting not a meeting? Not a violation

- Individual contacts
- Conferences and seminars- Attendance at conferences open to the public on issues of general interest to the public or public agencies
- Community Meetings- Town meetings or similar gatherings which are open, noticed and originated by a person or organization other than the local agency
- Purely social or ceremonial occasions

# Brown Act – Meeting Exceptions

When is a meeting not a meeting? Not a violation

- Attendance at a standing committee meeting (observation only)
- Attendance at meetings with other legislative bodies
  - A majority of the body may attend an open and noticed meeting of another legislative body as long as they do not discuss among themselves, other than part of the scheduled meeting, issues under their jurisdiction.
- Example: majority of Commission attends a Board of Supervisors meeting—isn't a Commission meeting.

# Serial Meetings Are Illegal

## Serial Meetings:

- Expressly prohibited
- A series of communications, direct or indirect, each of which involves less than a quorum of the legislative body, but when taken as a whole, involves a majority of the members.
- The members discuss, deliberate, or take action on an issue through personal intermediaries, emails, phone calls, letters, written proposals, or other method.

*Reasoning: Deliberations and actions of public bodies should be done openly*

# Serial Meetings Are Illegal

## Types of Serial Meetings

Hub and spoke



Telephone or email chain



\* Individual briefings are permitted but members should avoid making inquiries about what other members thought or said.

# Brown Act and Emails

## Tips for Avoiding Problems:

- Refrain from replying to an e-mail directed to a majority of the members concerning a public discussions or deliberations
- Do not take a position or make a commitment on public matters yet to be decided
  - E-mails can be forwarded without your knowledge
- Only e-mail the entire Commission to provide information. **Or better yet, have staff distribute materials**
  - Do not request a response

# Brown Act, Public Records Act and Emails/Text Messages

## Tips for Avoiding Problems:

- Remember when replying to an e-mail, you have no idea where your reply will end up... including the desk of the local newspaper editor
- E-mails/text messages addressing committee issues are public records and, if requested, probably would need to be publicly disclosed
  - Rule even applies to messages sent or received on personal e-mail accounts and personal devices

# Rules Governing Meetings

## Agenda Requirements for Regular Meetings

- Must post 72 hours prior to the meeting
  - Physically post in a location “freely accessible to the public” 24 hours per day and on website, if agency has website
- Must include the time and location of the meeting
- Must contain a brief general description of each item to be discussed or addressed
- Must be publicly accessible and distributed in advance to those that request copies
- If requested, the agenda must be made available in appropriate alternative formats to persons with a disability

# Public Participation

## The Public's Right to Comment

- At every **regular** meeting, members of the public have the right to directly address the body on **any item of public interest if that item is under the jurisdiction of the body**
- For agenda items, the public must be given an opportunity to comment **before or during** the body's consideration of the item



# Public Participation

## The Public's Right to Comment

- Can speak on any item in subject matter jurisdiction
- Can criticize the policies, procedures, programs, services, or omissions of the body
- Accepting grandstanding, negative feedback and criticism as part of public service
- Not required to register
- Speaker cards are not a prerequisite
- Time limits and prohibiting disruptive conduct okay
- Rules of decorum and reasonable restrictions upon public comment are permitted, if not too broad and do not constitute “prior restraints”
- Recording permitted
- If the body reviews documents, copies of those documents must be publicly available and/or provided without delay when requested

# **No Action Allowed**

- In general, and subject to certain exceptions, Commission members can only discuss and take action on items that are on the publicly noticed agenda

# No Action Allowed (cont.)

No action or discussion allowed for any item not listed on agenda EXCEPT FOR:

- Brief response to statement or question from public
- Questions to staff for clarification of a matter based upon public comment
- Brief announcement or report on member's or staff's own activities
- Provide reference or information to staff
- Ask staff to report back at a future meeting on any matter
- Ask that item be added to future agenda for substantive discussion

# **Brown Act – Meeting Locations**

- General rule: Must be held within the jurisdiction of the body
- Meetings shall not begin before the publicly noticed meeting time