

**May 21, 2015**  
**Regular Meeting**  
**EMS Ad Hoc**  
**Item #2c**

**County Counsel**

**The Brown Act Power Point**

**The Brown Act**  
Presented to:  
EMS Ad Hoc Advisory Committee

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**PUBLIC MEETINGS: The Brown Act**

1. Who is Covered?
2. What is a Meeting?
3. Notice and Agenda Requirements
4. Rights of the Public
5. Permissible Closed Meetings
6. Consequences of Violation

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**I. Who is Covered?**

- Legislative bodies of all local agencies in California.
- Any person elected to a local legislative body who hasn't yet assumed office.

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**Definition: Legislative Body**

- The term legislative body is defined to include the governing body of the local agency (e.g., the Board of Supervisors) and any commission, committee, board or other body of the local agency, whether permanent or temporary, decision-making or advisory, that is created by formal action of a legislative body.

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**2. What is a Meeting?**

- **Definition:** Any congregation of a **majority** of the members of a legislative to hear, discuss, or deliberate on any matter within its jurisdiction.
- A board does not have to take action for discussion among a quorum of its members to count as a meeting.

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**Serial Meetings Prohibited**

- Gov. Code §54952.2(b)(1) states “A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.”

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**What doesn't count as a meeting?**

- Individual discussions between a committee member and a member of the public or staff
- Various public or ceremonial occasions where a majority of the committee is in the same time and place, provided they don't discuss among themselves the business of the committee, except as part of the scheduled program of the event
  - Conferences open to the general public which involve issues of interest to the committee
  - Attendance at other public meetings
  - Meetings of other bodies under the same agency (i.e. attending a BOS meeting)

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**3. Notice and Agenda Requirements**

(A) Generally notice must be posted 72 hours before the meeting and must include the time and place of the meeting, and a brief general description of each item of business to be transacted or discussed, including items to be discussed in closed session.

(B) The agenda must describe procedures and deadline for disabled persons to request disability-related modification or accommodation, including auxiliary aids or services, in order to participate in meeting. (§ 54954.2.)

(C) The agenda must describe where the public may review open session materials distributed after the agenda is posted. (§ 4957.5.)

(D) The agenda must include a separate item (usually called public comment) for topics not on the agenda but within the subject matter jurisdiction of the legislative body. (§ 54954.3.)

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**What About Items That Were Not Included in the Notice?**

- At a meeting, members of a legislative body or staff may:
  - Briefly respond to statements made or questions posed by persons providing public comment.
  - Ask a question for clarification.
  - Make a brief announcement.
  - Make a brief report on their own activities.
  - Provide a reference to staff or other resources for factual information.
  - Request staff to report back on an issue at a subsequent meeting (for which the matter is agendaized).
  - Take action to direct staff to place a matter of business on a future agenda.

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**Where may the committee meet?**

- General rule: "Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction."

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**When can the committee meet?**

- Meetings of advisory bodies and standing committees for which 72-hour notice is provided are considered regular meetings. (§ 54954(a).)
- Advisory bodies and standing committees can also call a special meeting upon 24-hours notice.

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**Long-Distance Participation**

- Teleconferencing (defined as "a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both") is permitted by the Brown Act if a number of requirements are met.
- Votes must be by roll call.

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**4. Rights of the Public**

- To attend anonymously
- To record or broadcast the meeting
- To provide public comment
- To have access to documents distributed to members of the legislative body upon request
- Not to pay the agency's costs for complying with the Brown Act
- To be free from discrimination

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**5. Permissible Closed Meetings**

Note that none of these exceptions are likely to apply to the committee's work:

- Personnel evaluations
- Labor negotiations
- Pending litigation
- Real estate negotiations (price and terms)

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**6. Consequences of Violation**

- Criminal Penalties- misdemeanor where action taken in violation of the act with the intent to deprive the public of information to which it is entitled.
- Civil Remedies:
  - Injunction, mandamus, declaratory relief
  - Action may be voided following notice to correct
- Attorneys fees - awarded against the agency, not the individual

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### PUBLIC RECORDS ACT

- *Definition of public record:*
- "Any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."
- "Writings" covered by the CPRA include "handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored."

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### PUBLIC RECORDS ACT

- This is an open process so assume everything you put in writing will be read by the public.
- While unlikely, it is possible that certain communications or writings may be exempt from disclosure under specified exemptions in the CPRA.

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## Thank You!

Should you have any questions not answered today, please don't hesitate to contact me.  
ssimon@mono.ca.gov or (760) 924-1704

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