

***Understanding Brown Act  
Open Meeting Requirements***

# ***Purpose***

Establishes the procedural framework for members of local governmental decision-making bodies to openly meet, debate, and act.

Provides the means for the public to be informed about the views, discussions and actions of its locally elected and appointed government representatives.

# ***Overview***

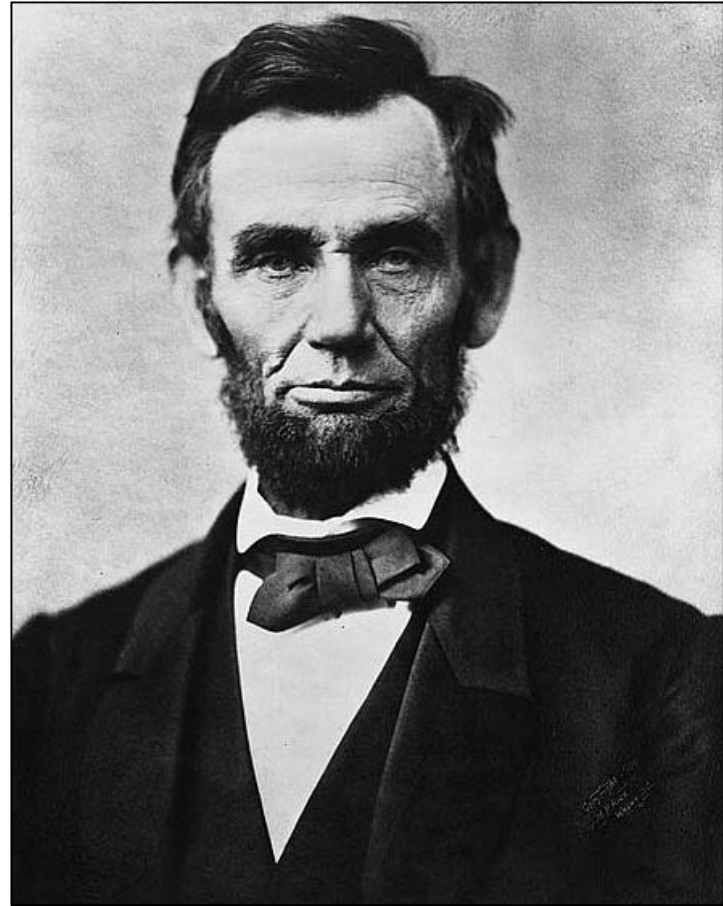
Government officials are elected by the people, represent the people, and govern on behalf of the people.

The public needs to observe, monitor, and evaluate its elected representatives.

The Brown Act is designed to encourage public participation in local government.

*“...government of the  
people, by the people,  
for the people.”*

*Abraham Lincoln,  
Gettysburg Address  
November 19, 1863*



# ***History***

Introduced by Modesto Assemblyman Ralph M. Brown more than 50 years ago.

The Legislature has frequently added to the requirements of the Act over the years.

Requirements are detailed, comprehensive, and complex.

# ***Legislature's Intent***

*The Brown Act embodies the philosophy that public agencies exist for the purpose of conducting public business, and the public has the right to know how its “collaborative decisions” are being made.*

*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 them to know.*

*California Government Code § 54950*

# ***Openness***

All meetings of government bodies must be fully open and accessible to the public.

Boards must discuss, deliberate and act on the public's business.

Exceptions to the rule of openness are few and narrowly.

# ***Subject Organizations***

All governing boards of local government agencies.

The advisory and standing sub-committees created by such governing boards.

All boards, committees and bodies created by federal or state law.



# *Meetings*

A meeting is any gathering of a majority of board members at the same time and place that involves any aspect of the decision-making process.

There are three types of meetings:

- Regular Meetings.
- Special Meetings to discuss a specific issue.
- Emergency Meetings to deal with a specific emergency situation.

# ***Exceptions***

Conferences, training, workshops.

Community forums, and meetings of other governmental bodies.

Social or ceremonial occasions.

Within these exceptions, the board members must avoid talking about any board business while they are at all such events.

# ***Location of Meetings***

A majority of the board must meet within the boundaries or jurisdiction of the board with only specific exceptions, including the inspection of real property, or meeting with federal/state officials to discuss legislative or regulatory issues.

If a board member participates by teleconferencing, the location that member is calling from must be Noticed, with and Agenda posted, and accessible to the public.

# ***Prohibited Activities***

Any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

# ***Prohibited Activities (continued)***

A Serial or “Daisy Chain” meeting which is a series of meetings to develop a consensus, with each meeting involving less than a majority of members, but which taken together involve a majority of board members.

A Hub and Spoke meeting which is when a single board member acts as a contact point for all other board members and communicates to each of them the other board members positions in order to reach a consensus

# ***Use of E-Mail***

Board members cannot:

- Use e-mail to develop a collective consensus, agreement, or decision; or
- Exchange information in e-mail about their views or positions on public business.

# ***Noticing Requirements***

Notice and agenda for regular meetings must be posted in an accessible location 72 hours in advance; and mailed to all those who request a Notice.

Special meetings may be called by posting Notice and agenda at least 24 hours before the meeting.

# ***Agenda Requirements***

Agendas must contain a brief description of every item to be discussed, including closed session items.

Descriptions must be clear enough to be understood by members of the public.

Agendas for regular meetings must include a time for public comment.



# ***Public's Rights***

Members of the public have the right to:

- Address the board on both agenda and non-agenda items.
- Be accommodated, if disabled, so they can access and participate in the meeting.
- Receive copies of written materials distributed to the board, except privileged items.

# ***Closed Session***

Closed sessions are narrowly authorized for specific matters and discussions must not go beyond that limited scope.

Special disclosures have to be made by the board before and after holding a closed session.

# ***Closed Session Procedure***

Agenda must include a brief description of the nature of the closed session.

The board must disclose, in open session, the items to be discussed in closed session.

The board must make a public report of certain actions taken in closed session.

# ***Closed Session – Confidentiality***

Except for reporting-out requirements, confidentiality of closed session matters must be preserved.

Violation can result in a lawsuit to enforce confidentiality, disciplinary action against an employee, or referring the matter to the grand jury.

# ***Closed Session – Personnel***

To consider the employment, evaluation of performance, discipline or dismissal of a public employee.

To hear complaints or charges against an employee by another person.

# ***Closed Session – Labor Negotiations***

To meet with bargaining representatives to review the board's negotiating position and instruct its representatives regarding represented or unrepresented employees.

# ***Closed Session – Pending Litigation***

To consult with or receive advice from legal counsel concerning pending litigation when a public discussion of such matters could prejudice the position of the board in the litigation.

# ***Closed Session – Real Property***

To grant authority to the board's negotiator regarding price and terms of payment prior to the purchase, sale, exchange, or lease of real property.

A discussion of potential sites is not authorized.



# ***Enforcement***

## Civil Remedies:

- Compliance with the Brown Act can be enforced by civil lawsuit.
- A court can declare board actions void that are not in compliance with the Act, if not cured.
- The board can be liable for significant costs and attorneys fees.

# ***Enforcement (continued)***

## **Criminal Penalties:**

- A violation of the Brown Act may be a misdemeanor if a member participates in board action with the “wrongful intent to deprive the public of information.”

# *True or False Quiz*

1. A meeting as defined in the Brown Act occurs only when some action is taken. **FALSE.**
2. Board members may poll each other by e-mail on any issues which may come before the board. **FALSE.**
3. A telephone conference between two members of a five-member board is a meeting under the Brown Act if they discuss district business. **FALSE.**

4. The board may take a vote by secret ballot in open session, **FALSE.** in closed session. **FALSE.**
5. Any person may record an open meeting of the board via audio or video tape recordings. **TRUE.**
6. A member of the public may address the board at a regular meeting on any item of interest to the public provided the matter is within the jurisdiction of the board. **TRUE.**

7. The board may limit the amount of time members of the public are allowed to speak on matters of public interest. **TRUE.**
8. The board is not required to announce in open session the items to be discussed in closed session. **FALSE.**
9. When considering the discipline of employees, the board must provide the employee 24 hours notice of his/her right to request a public session. **TRUE.**

10. In general, reportable action taken in closed session must be reported out in open session at the same meeting. **TRUE.**
11. The board may hold its meetings at any location it chooses within the county provided the public is notified, even if the board is not countywide. **FALSE.**
12. A board member may divulge closed session information provided that he/she so advises the board before adjournment. **FALSE.**

# ***Conclusion***

Board members are representatives of the people whom the people entrust to manage government affairs.

The Brown Act is for the benefit of the public that board members represent.

The Brown Act must be taken seriously, failure to do so can result not only in legal penalties but a loss of public trust.