

Cal Cities City Clerks Department

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What's New with the Brown Act?

Including Fundamentals and Recent
Developments in Meeting Administration

Tracy Noonan, Thousand Oaks City Attorney

Eric Danly, Petaluma City Attorney



Ralph M. Brown Act



Open and Public

"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..."

Government Code § 54953(a)

Topics

- * What is a “meeting”?
- * What is a “legislative body”?
- * What rules apply to meetings?
- * Meeting disruptions
- * What are the remedies for violations?

Who is subject to the Brown Act?

Legislative Bodies

- Legislative Bodies

- Governing body (City Council)
- Boards and commissions
- Standing committees of CCB's

- NOT a Legislative Body

- Temporary advisory committees or ad hoc sub-committees of less than a quorum of the legislative body
- A group of employees; a group of citizens that is not appointed by the legislative body.

What is a “meeting”?

Gov. Code section
54952.2(a)

Meetings

- * Majority of Body
- * Collectively (same time and place)
- * Hear, Discuss, Deliberate or Take Action
- * Within Subject Matter Jurisdiction



What is not a “meeting”?

Individual Contacts



Conferences and Seminars

Conferences and seminars must be open to the public and limited to issues of general interest

Members of the body should not discuss City business



Community Meetings

Need to be open to the public and publicized

Recommended to avoid any direct participation or at the very least don't discuss items within your subject matter



Social Events

A majority can attend social or ceremonial events, but don't talk about business within their purview

Also, remember optics



Other Exceptions

- * Meetings of the governing board or other commissions of the Agency
- * Attending subcommittee meetings as observers

Illegal “meetings”

- ❖ Collective briefings (more than a quorum together with staff)
- ❖ Retreats or workshops on City business
- ❖ Serial meetings (Daisy chain and Hub and Spoke)

Serial Meetings are Illegal

* Daisy Chain or Hub and Spoke



Staff Briefings

ONLY OK IF

- * Informational
- * No views of other members shared to other members



Teleconference Meetings Traditional Requirements

- * §54953 requires remote location to be open to the public, listed on the agenda, the agenda to be posted at the remote location(s), and the public able to participate at remote location
- * Also requires all actions by roll call vote, and a quorum of the body must participate from locations within the agency's jurisdiction

Remote/Teleconference Meetings (AB 2449)

- * Relaxes traditional teleconference/remote meeting requirements only for “just cause” or due to “emergency circumstances” as defined
- * Does not require identification of teleconference site
- * Does not require site be open to the public

Remote/Teleconference Meetings (AB 2499)

- * “Just cause”:
 - * Childcare or caregiving need of a family member or domestic partner
 - * Contagious illness that prevents attending in person
 - * Need related to a disability not otherwise accommodated
 - * Travel while on official business of the body or another state or local agency

Remote/Teleconference Meetings (AB 2499)

- * “Emergency circumstances”:
 - * A physical or family medical emergency that prevents a member from attending in person

Remote/Teleconference Meetings (AB 2499)

Members may participate in meeting remotely under “Just Cause” requirements:

- * Must notify the body as soon as possible, including at the start of the meeting, describing the “just cause” for remote participation
- * Not more than twice in a calendar year

Remote/Teleconference Meetings (AB 2449)

Members may participate in meeting remotely under “Emergency Circumstances” requirements:

- * Must seek approval of the body as soon as possible, including at the start of the meeting, describing the emergency circumstances requiring remote participation
- * Not more than 3 consecutive months or 20% of an agency’s regular meetings

Remote/Teleconference Meetings (AB 2499)

- * Additional requirements:
 - * Quorum must participate from a single, identified location open to the public in its jurisdiction
 - * Remote public participation by video and phone
 - * If remote public participation is disrupted, the body must suspend action until it is restored
 - * Submission of public comments cannot be required in advance of the meeting – no cut off period
 - * Remote member must participate by video
 - * Remote member must disclose those 18 years or older that are present in the room

Remote Meetings

AB 557 (2024)

- * AB-557 amends §54953 to relax traditional teleconferencing requirements during proclaimed states of emergency for meetings:
 - * To determine if, due to the emergency, meeting in person would risk the health or safety of attendees
 - * When the body has determined that meeting in person would risk the health or safety of attendees

Remote Meetings

AB 557 (2024)

- * Requirements for AB 557 remote meetings:
 - * Must give notice of call-in or internet options for public participation and comment
 - * If remote public participation is disrupted, the body must suspend action until it is restored
 - * Submission of public comments cannot be required in advance of the meeting – no cut off period

Remote Meetings AB 557 (2024)

Requirements for AB 557 remote meetings:

- * Cannot terminate timed public comment period for agenda items or general public comment early
- * Must provide reasonable public comment period for agenda items if no specified time
- * Must make findings at least every 45 days after first AB 557 teleconference
- * January 1, 2026 sunset

Rules Governing Meeting Notice

Regular Meeting

- * Agenda: posted 72 hours in advance
- * Accurate description
- * Freely accessible location



Non-Agenda Items



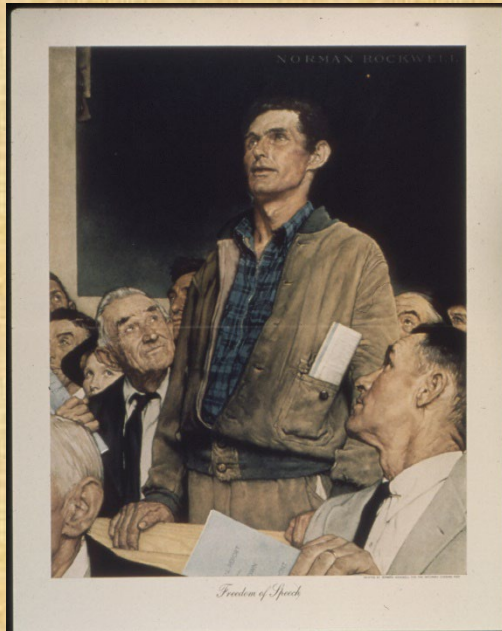
Don't discuss items not on the agenda.

Except ...

- * Brief response
- * Clarification
- * Brief announcements
- * Requests for future report
- * Placement of items on future agenda

Public Participation

Public Comments



- * Freedom of Speech
- * Criticism of agency or individuals allowed

Limited Public Forum

- * Right to speak is limited compared to public and designated forums
- * May adopt reasonable content and viewpoint neutral regulations
 - * Can limit speaker time, restrict comments to subject matter jurisdiction

Rules and Decorum



- * Speaker cards
- * Rules of decorum
- * Time limits
- * Recording

Meeting Disruptions

Removal of Disruptive Citizen

(Govt. Code Section 54957.95)

- * Allows presiding officer to remove if citizen is disruptive.
- * Must first warn about disruption and failure to cease will result in removal.

Meeting Disruptions

Zoom Bombing - What is it?

A number of jurisdictions have received hate speech and discriminatory comments based on race, ethnicity, sexual orientation and identity during remote public comment

Meeting Disruptions

Zoom Bombing – Agency Duties

- * The public has a right to criticize officials and staff
- * Objectionable speech that complies with lawful forum rules is generally protected
- * The best antidote to objectionable speech may be more speech

Meeting Disruptions

Zoom Bombing - Strategies

- * As limited forums - council meetings can restrict comments in time and to the Council's jurisdiction
- * The Brown Act does not require permitting remote public participation when legislative body members are not remote
- * Consider City's duty to provide a safe workplace

Enforcement

Enforcement & Consequences

- * Notice and opportunity to cure
- * Civil action for invalidation of actions
- * Attorneys' fees and costs
- * Criminal prosecution:
 1. Action taken at a meeting
 2. In violation of the Act
 3. With intent to deprive public of information

Further Resources

- * California League of Cities, Open Government Resources:
<http://www.cacities.org/Resources/Open-Government>