



THE BROWN ACT

Long Beach City Attorney's Office

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The Brown Act: General Principles

- ▶ All meetings shall be open and public
- ▶ Actions and deliberations must be taken openly
- ▶ All persons shall be permitted to attend and participate in the meetings
- ▶ Only matters on the agenda can be discussed

Appearance of Impropriety

- ▶ Brown Act encourages avoiding the possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation
- ▶ Besides the Brown Act, there may be other reasons, such as due process considerations, why members should avoid giving public testimony or trying to influence the outcome of proceedings before another body

Who is Subject to the Brown Act?

- ▶ Applies to “legislative bodies” including advisory commissions created by the Long Beach City Council or the Long Beach City Charter
- ▶ Applies to subcommittees created by formal action of the advisory commission
 - But not temporary ad hoc advisory committees made up solely of commission members and constituting less than a quorum

What Constitutes a Meeting?

- ▶ Any congregation of a majority of the commission members at the same time and place to hear, discuss or deliberate on any item that is within the subject matter jurisdiction of the commission
- ▶ Includes regular and special meetings



Serial Meeting/Series Communications

- ▶ Beware of email communications
 - A majority cannot email each other to discuss topics before the commission
- ▶ Beware of “serial” contacts. “A to B” and “B to C” can lead to a “collective concurrence”
- ▶ A majority of a legislative body is prohibited from meeting together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements



What is Not a Meeting?

- ▶ Individual contacts between a commission member and another person or commission member
- ▶ This exception recognizes the right to confer with constituents, advocates, consultants, reporters, staff and colleagues
- ▶ Majority of the members at a:
 - Conference open to the public
 - Local public meeting
 - Open meeting of another body
 - Social or ceremonial event

But cannot discuss commission matters among themselves at these events

When Can Meetings Be Held?

- ▶ Regular meetings:
 - Agenda posted 72 hours before
- ▶ Special meetings:
 - Called by chair or majority of commission members, agenda posted 24 hours before

Where Can Meetings Be Held?

- ▶ Within the boundaries of the City, unless a specific exemption applies
- ▶ Meetings must be accessible under the Americans with Disabilities Act

Agenda Descriptions

- ▶ Brief general description of each item
- ▶ Include the date, time, and location of the meeting
- ▶ Must inform public of scope of the commission's intended plans so public can decide whether to participate
- ▶ Must be posted in a location "freely accessible" to members of the public

Public Right to Comment

- ▶ Regular meeting
 - Public may comment on any matter within the commission's subject matter jurisdiction even if not on the agenda (non-agenda public comment)
 - Public also must be allowed to comment on agenda items
 - Reasonable regulations, including time limits, may be adopted



Public Right to Attend

- ▶ Public has a right to record the meeting with an audio or video tape recorder, or take photographs
- ▶ Public has a right to review agendas and other writings distributed to a majority of the commission members
- ▶ No secret ballots allowed

Closed Sessions

- ▶ Take place in private without the attendance of the public or press
- ▶ Only permitted if expressly authorized by the Brown Act
- ▶ Examples:
 - ▶ Anticipated or pending litigation
 - ▶ Public employment
 - ▶ “Appointment, employment, evaluation of performance, discipline, or dismissal of public employee or to hear complaints or charges brought against the employee”
 - ▶ Public Security

Closed Sessions: Agendas and Reporting

- ▶ Agenda must list the closed session category (e.g., pending litigation, etc., and the specific statute listed) with a brief description as permitted under law
- ▶ Report out the actions taken and the vote

Closed Sessions: Confidentiality

- ▶ There may be no unauthorized disclosure of confidential information acquired in a closed session by any person present



Closed Session: Authorized Attendees

- ▶ Differs based on the topic of the closed session
- ▶ Could include members of the body, agency counsel, management and support staff, and others needed for consideration of the subject matter of the closed session

Violations of Brown Act

► Civil Actions

- Any interested party may begin action to invalidate certain actions that violated Brown Act. However, the commission will have an opportunity to cure and such alleged violation
- Any interested party may also file a civil action to prevent future violations
- Costs & attorney fees may be awarded to successful party

► Criminal penalties

- With intent to deprive public of information
- Punishable as a misdemeanor