

# **Brown Act Basics for 7-11 Committees**

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# Brown Act Overview

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- The Brown Act is California's open meeting law (Gov. Code, § 54950 et seq.)
- Types of meetings subject to the Brown Act:
  - Any congregation of a majority of the members of a legislative body to hear, discuss, or deliberate upon any item within its jurisdiction (Gov. Code, § 54952.2(a))

# What is a “Legislative Body”?

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- All subcommittees and commissions created by formal actions of the board are subject to the Brown Act (Gov. Code, § 54952(b))

# Legislative Bodies

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- Include:
  - “Appointed bodies – whether permanent or temporary, decision-making or advisory – such as planning commissions, civil service commissions and other subsidizing committees, boards, and bodies.”

League of Cities, Open & Public IV,  
A Guide to the Ralph M. Brown Act

# Legislative Bodies

- Include:
  - “Volunteer groups, executive search committees, task forces, and ‘blue ribbon committees’ created by formal action of the governing body are legislative bodies.”

League of Cities, Open & Public IV,  
A Guide to the Ralph M. Brown Act

# Legislative Bodies

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- “7-11 Committees,” appointed by a governing school board pursuant to Education Code section 17388, are included as Brown Act bodies

# Brown Act Overview

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- What does the Brown Act require?
  - That actions and deliberations be taken openly and in public (Gov. Code, § 54950)
  - Meeting must be in public unless otherwise specifically permitted by law
  - Meeting agendas must be posted prior to meetings (Gov. Code, § 54954.2)

# Brown Act Overview

- What is a meeting?
  - Any congregation of a majority of the members in which they hear, discuss, or deliberate on any item within the body's jurisdiction
  - It can be a meeting even if no action is taken and no concurrence is reached

(Gov. Code, § 54952.2)





# Brown Act Overview

- What is a meeting?
  - Serial phone calls or conversations
  - Electronic communications among a quorum (emails, social media, etc.)
  - Use of intermediaries to develop “collective concurrence”
  - Committee “polling”



# Brown Act Overview

- These are not “meetings” under the Brown Act:
    - Individual contacts between a committee member and others
    - Community meetings
    - Social gatherings
- (Gov. Code, § 54952.2(c))



# Brown Act Overview

- Notice and agenda requirements:
  - Post an agenda at least 72 hours before a regular meeting, or 24 hours before a special meeting  
(Gov. Code, §§ 54954.2(a) & 54956(a))



# Brown Act Overview

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- The agenda should:
  - Contain brief and general descriptions of each business item to be discussed or transacted at the meeting
  - Specify the time and location of the meeting
  - Be posted in a location freely accessible to the public
  - Upon request, be made available in appropriate alternative formats to a person with a disability

(Gov. Code, § 54952.2(a))

# Brown Act Overview

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- Generally, the committee may not discuss or take action on any item that is not in the posted agenda, subject to narrow exceptions.
- One exception is that committee members may respond briefly to public comments (Gov. Code, § 54954.2(a)(3))

# Serial Meetings

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- A meeting can occur through intermediaries  
(See Gov. Code, § 54952.2(b))
- The key: avoid a quorum whether at one time or in a series of communications

# Brown Act

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- Serial Communications
  - “chain links”
  - “hub and spokes”

# Serial Meetings

- “[A] serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body’s members.”

(Attorney General’s Brown Act Handbook)



# Meetings Can Occur Through the Use of Intermediaries

- The “Chain” of Communications
  - “For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting of a five-person body.”  
(Attorney General’s Brown Act Handbook)
- The “Hub” and “Spokes”
  - “Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred.”  
(Attorney General’s Brown Act Handbook)

# Serial Meetings and Technology

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- The Brown Act prohibits the use of technology by a quorum of the committee to discuss their business
- Examples:
  - A quorum of the committee should not e-mail each other regarding a topic within the committee's jurisdiction
    - According to the Attorney General, e-mail discussions by a legislative body cannot be made Brown Act compliant by thereafter disclosing or posting the e-mails

# Serial Meetings and Technology

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- Examples:
  - An internet “chat room” has the potential of violating the Brown Act if a quorum of the committee participates in the chat and discusses matters within the committee’s purview

# Serial Meetings and Technology

- Examples:
  - Beware “Reply All” email communications
  - Email: majority of members may not email each other to discuss committee matters beyond scheduling or other non-substantive issues



# Public Participation

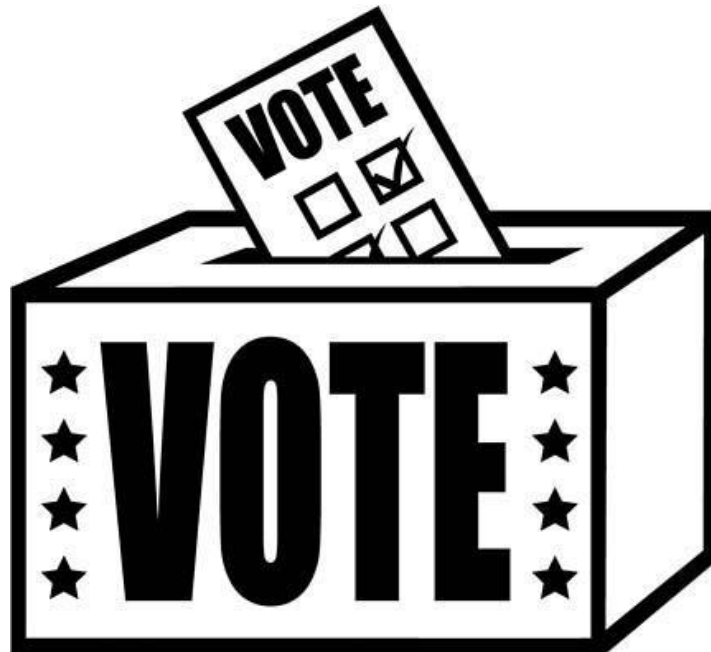
- The public is allowed to make comments at committee meetings
- Public comment may be taken at a set part of the meeting (e.g., at the beginning or closing) or before discussion of particular items
- Public comment must be allowed before an action is taken

(Gov. Code, § 54954.3)



# Voting

- No secret ballots:
  - Committee should publicly report any action taken in open session and each member's vote or abstention on that action (Gov. Code, § 54953(c)(2))



# Materials Distributed to the Committee at Meetings

- If distributed less than 72 hours prior to a regular meeting, the writing must be made available for public inspection at a designated location (Gov. Code, § 54957.5(b))
- Writings distributed at a meeting must be available for public inspection at the meeting, or after the meeting if prepared by another person (Gov. Code, § 54957.5(c))

# Questions







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