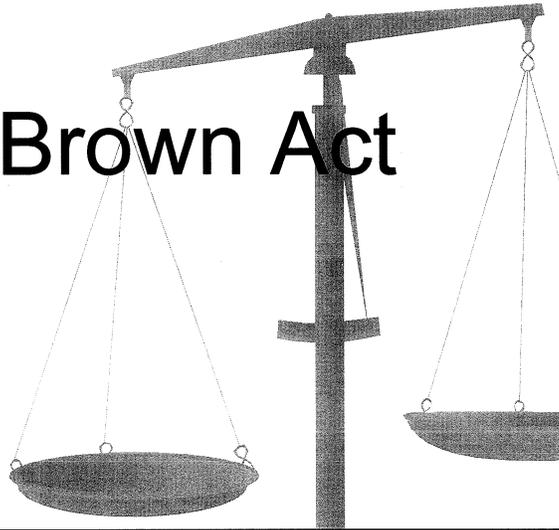
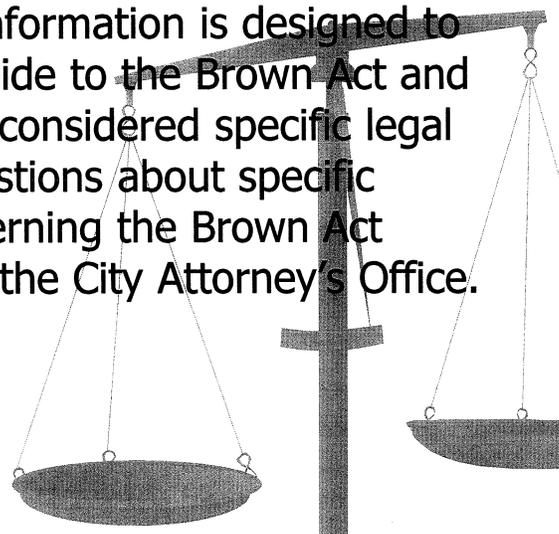


The Brown Act

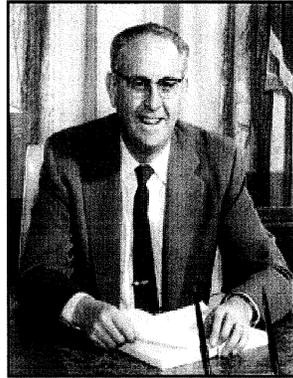


Disclaimer

The following information is designed to be a general guide to the Brown Act and should NOT be considered specific legal advice. For questions about specific situations concerning the Brown Act please consult the City Attorney's Office.

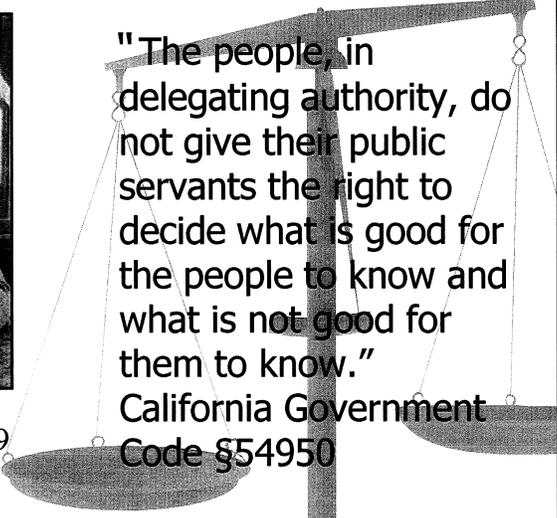


Open and Public



Ralph M. Brown 1959

Photo courtesy The Modesto Bee



"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

Meetings

Brown Act Definition: A meeting is a gathering of a majority of Personnel Commission members to hear or discuss any item of Commission business. A meeting under the Brown Act does not have to include action. It can simply be the exchange of information.

There are three types of meetings:

- Regular - regularly scheduled meetings. The Personnel Commission must formally set the time and place for its regular meetings either in its bylaws, a resolution or some similar formal rule.
- Special – meetings called by the agreement of a majority of the Personnel Commission to discuss a specific issue.
- Emergency – meetings held, as allowed in Section 54956.5 of the Act, to deal with emergency situations

Collective Briefings

- Collective briefings are **not** permitted. Any briefings involving the majority of the Commission must be open to the public and satisfy the notice and agenda requirements specified in the Act.
- A unilateral written communication to the Commission such as an informational or advisory memorandum does not violate the Act. The memo may, however, be public record.

More About Meetings

- The Commission CANNOT meet to discuss business outside of a properly noticed meeting. An agenda must be posted. For instance, a majority of Commission members cannot meet for coffee or lunch to discuss Commission business outside of a meeting.
- Example: In 1968 the Sacramento Newspaper Guild sued the Sacramento County Board of Supervisors because they held a lunch gathering that included five county supervisors, the county counsel, a variety of county officers, and representatives of a union to discuss a strike that was underway against the county. The court ruled that this gathering constituted a meeting and the supervisors were in violation of the act.
- If you type "Brown Act violations" into an internet search engine you will get many examples of Brown Act violations or potential violations.
- There are a few exceptions that we will discuss.

Meeting Exceptions

- Conferences – It is okay to attend a conference together provided you do not discuss Commission business. It is permissible to talk about Commission business if it is part of the conference program and the conference is open to the public.

More Exceptions

- Community Meetings – It is okay to attend community meetings together. For example, if there is a meeting to discuss building a new school in your district it is okay if all Personnel Commission members attend.
- Other Legislative Bodies – For example a meeting of the City Council.
- Social or Ceremonial Events – There is nothing in the Act to prohibit Commission members from attending purely social or ceremonial gathering. For example, funerals, weddings, etc.

The Bottom Line: With all of these exceptions, Commission members **must** avoid talking about Commission business while they are at the event.

The only time directors can discuss Commission business outside a meeting is if the business is part of the other organizations agenda and the agenda has been properly posted. For example, if the City Council requested that the Commission attend its meeting to discuss Commission business and the City Council had properly posted notice of the meeting.

Special Meetings

Conditions for a special meeting:

- Written notice must be delivered to each member of the Personnel Commission and to each local newspaper of general circulation, and radio or television station which has requested such notice in writing. (§54956)
- The written notice must be delivered and posted at least 24 hours prior to the special meeting in a site freely accessible to the public. The notice must include the time and place of the meeting, and a brief description of all business to be transacted or discussed. (§54956)
- The Commission cannot consider business that is not mentioned in the notice.
- Notice is required even if no action is taken at the meeting.
- As with regular meetings, every special meeting must allow for a public comment period (§54954.3(b))

Emergency Meetings



- Extremely rare
- Only call an emergency meeting if there is in fact an emergency
- An emergency is defined as:
 - a crippling activity, work stoppage or other activity which severely impairs public health, safety or both. (§54956.5(a)(1))Generally emergency meetings can not include closed sessions (§54956.5)
- Anyone who has requested notice of meetings must be called one hour before the meeting.
- In the event the phones are not working the notice requirement is waived.

Serial Meetings

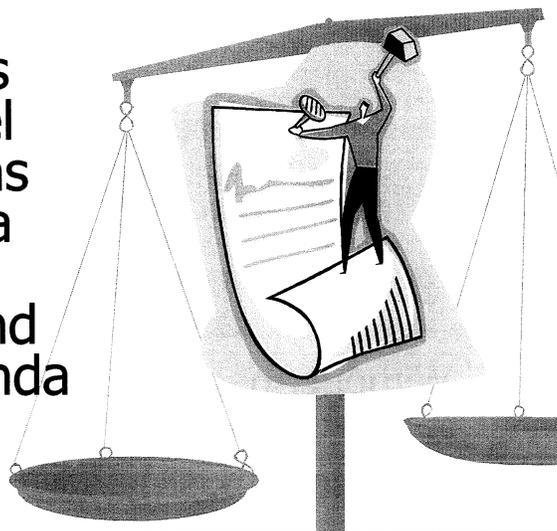
- Serial meetings are not allowed
- Serial meetings occur when a majority of the members have communicated about an issue and have developed a collective concurrence.
- A collective concurrence is developed when:
 - Members have either directly or indirectly heard each others opinion on a topic enough to collectively develop or begin to develop an agreement on an issue.

Types of Serial Meetings

- A daisy chain meeting:
 - Example: Member Arthur calls member Bill to talk about an issue, Bill calls member Charlie to talk about it and finally Charlie calls member David. A majority of the members have talked about the topic and a collective concurrence has been established.
- Hub and spoke meeting:
 - Example: For instance, if employee Eric calls member Arthur and discusses a Commission issue to get his opinion with him, then calls member Bill, then calls member Charlie, and then calls member David, telling each what the other has said, a majority of the Commission has indirectly discussed the topic without public notice and is therefore in violation of the Brown Act.

Meeting Agendas

All meetings of Personnel Commissions must have a properly prepared and posted agenda

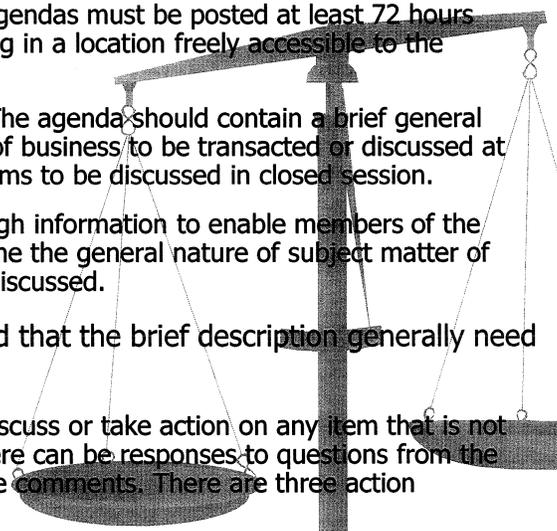


Meeting Agendas

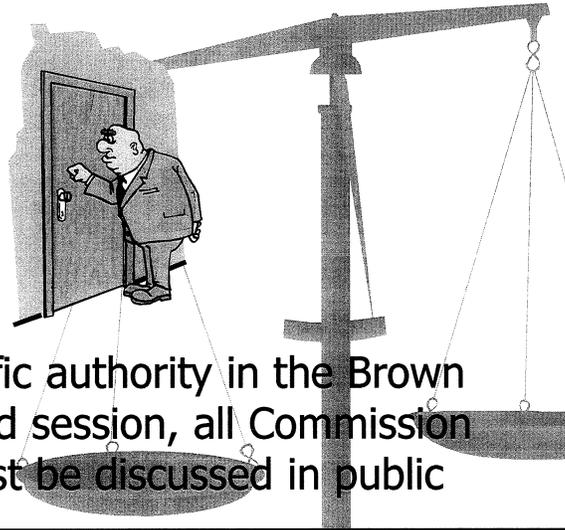
➤ Requirements:

- Posting requirements – Agendas must be posted at least 72 hours before the regular meeting in a location freely accessible to the members of the public.
- Content requirements – The agenda should contain a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.
- Agendas must have enough information to enable members of the general public to determine the general nature of subject matter of each agenda item to be discussed.
- The 1994 revision specified that the brief description generally need not exceed 20 words.

****The Commission can not discuss or take action on any item that is not on the agenda. However, there can be responses to questions from the public or other limited routine comments. There are three action exceptions.



Closed Sessions



Without specific authority in the Brown Act for a closed session, all Commission business must be discussed in public

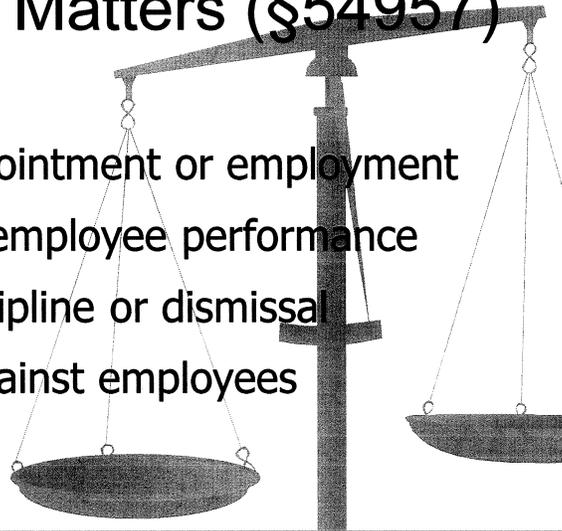
Closed Session Requirements

- Decisions reached in closed sessions must generally be announced in public immediately after the closed session.
- Public comment on closed session business
 - The public must be allowed to comment on closed-session items prior to the adjournment into closed session.

Closed Sessions are allowed for: **Personnel Matters (§54957)**

Including:

- Employee appointment or employment
- Evaluation of employee performance
- Employee discipline or dismissal
- Complaints against employees

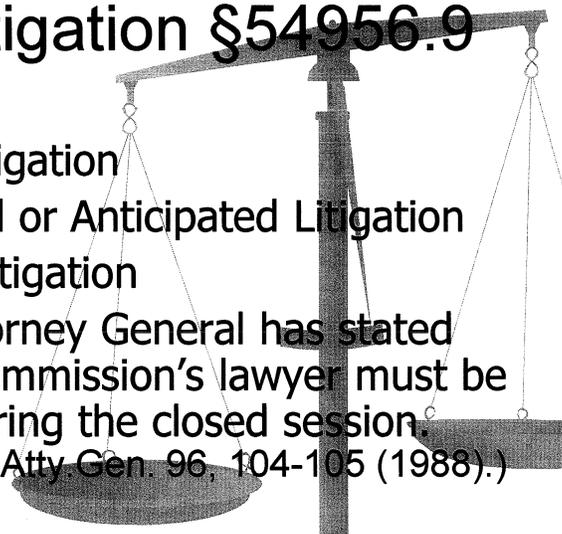


Closed Sessions are allowed for: **Pending Litigation §54956.9**

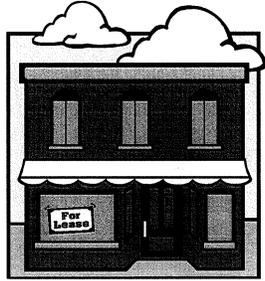
Including:

- Existing Litigation
- Threatened or Anticipated Litigation
- Potential Litigation

Note: The Attorney General has stated that the Commission's lawyer must be present during the closed session. (71 Ops. Cal. Atty. Gen. 96, 104-105 (1988).)



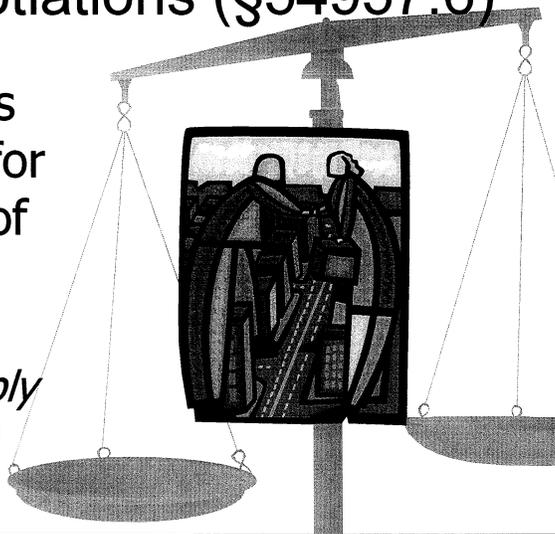
Closed Sessions are allowed for: Real Estate Negotiations (§54956.8)



- If you are meeting with your negotiator to discuss the purchase, sale, exchange or lease of real property.
- Before going into closed session the Commission must name its negotiator, describe the property, and name the other parties to the negotiation.

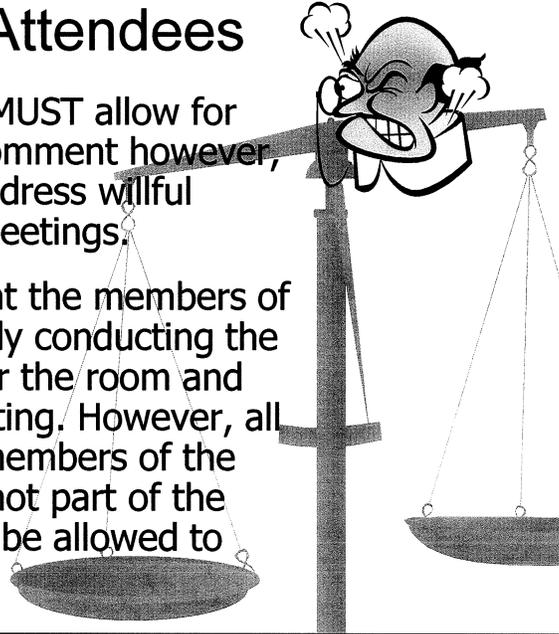
Closed Sessions are allowed for: Labor Negotiations (§54957.6)

- Closed sessions are permitted for some aspects of labor negotiations.
(not likely to apply to Commissions)



Disruptive Attendees

- The Commission MUST allow for negative public comment however, §54957.9 does address willful interruptions of meetings.
- The Act states that the members of the legislative body conducting the meeting may clear the room and continue the meeting. However, all press and other members of the public who were not part of the interruption must be allowed to stay.



For more information

- View the CA Attorney General's publication at: http://www.ag.ca.gov/publications/2003_Intro_BrownAct.pdf
- Attorney General's Opinion Regarding the Use of email: <http://ag.ca.gov/opinions/published/00-906.pdf>
- Text of the Brown Act: <http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=6815592595+1+0+0&WAIAction=retrieve>
- Ask your attorney!

