California Association of Local Behavioral Health Boards/Commissions

THE BROWN ACT

Open Meeting Rules

for

California's Local *Advisory* Boards & Commissions

Including changes effective January 1, 2026 – January 1, 2030

CA GOV 54950 – 54963 | www.calbhbc.org/brown-act

Topics

Brown Act Basics

- Open & Public Meetings
- Who is Covered/Not Covered?
- Documents
- Posting
- Public Participation
- Teleconferencing
- Voting

Teleconference & Alternative Teleconference Rules

Frequently Asked Questions

Brown Act Basics: **Open & Public Meetings**

Meetings of public bodies must be “open & public“. Action taken in violation of open meetings laws may be voided.

A **“meeting”** is any **gathering of a majority of the members (quorum)** of a covered board, commission, or its standing committees to **hear, discuss, or deliberate** on matters within the agency’s or board’s jurisdiction.

Emails, texts, calls, or other contact that result in a **cumulative quorum of members** discussing the **subject matter** of the board/commission are “meetings” that violate the Brown Act.

Brown Act Basics: **Who is Covered?**

Public bodies of local agencies, including counties and cities, school and special districts.

- **"Legislative bodies"** of each agency, the agency's governing body, plus "covered boards," that is, any board, commission, committee, task force or other advisory body created by the agency, whether permanent or temporary.
- **Standing Committees** of a covered board or commission, regardless of the number of members.

  (Standing Committees are committees with continuing subject matter jurisdiction of a covered board or commission.)

Brown Act Basics: **Who is NOT Covered?**

Ad hoc advisory committees (also called “work groups”) consisting of less than a quorum of the covered board (or its standing committees) with a short-term, time-limited purpose.

Most non-profit organizations

State government agencies are covered by the Bagley-Keene Opening Meeting Act.

Brown Act Basics: **Documents**

Treat documents shared with a **majority** of the board or commission as **public**.

Distribute and post "**without delay**".

GOV 54957.5

Brown Act Basics: **Agendas**

- **Posting**: On agency website and at physical meeting location(s) freely accessible to members of the public
- Agendas posted **72 hours in advance** of regular meetings
- Agendas posted **24 hours in advance** of special meetings (plus notification of local media)
- Agendas must include **opportunity for the public to address the board/commission on any item of interest** (within the subject matter jurisdiction) of the board/commission
- **Items must be on the posted agenda:** No action shall be taken on any item not appearing on the agenda

Brown Act Basics: **Public Participation**

- **Public Comment**
  before or during agenda items.
- **Recording**: Non-disruptive recording and broadcasting is allowed
- **Removal:** Individuals may be removed from meetings if they do not promptly cease disruptive behavior after receiving a warning from the presiding member.
- **Sign-In** or identification is not required
- **Translation**: Allow at least twice the allotted time to a member of the public who utilizes a translator

Brown Act Basics: **Teleconferencing**

Teleconferencing*

Agendas

- Posted at all teleconference locations
- Each teleconference location must be listed on the meeting notice and agenda.

Teleconference Locations

- Each teleconference location must be accessible to the public.
- At least a quorum of the members must participate from locations within the county (or jurisdiction).
- The agenda must provide an opportunity for members of the public to address the legislative body at each teleconference location.

Members with disabilities (temporary or permanent) Title 42, Section 12102

May participate in any meeting of the legislative body by remote participation as a reasonable accommodation. Their remote participation shall be treated as in-person attendance for all purposes, including physical quorum requirements.

* Alternative teleconference rules and requirements are listed on slides 11-14.

Brown Act Basics: **Voting**

- Conduct only public votes (no secret ballots)
- Public record of all member votes and abstentions
- Teleconference votes must be by roll call

Alternative Teleconference Rules
For Eligible **Subsidiary Bodies**

Local *advisory* board/commission members* may participate remotely without disclosing a physical location if the following requirements are met.

1. **Authorization** every 6 months by the governing body (The "governing body" is usually the Board of Supervisors) followed by **BH Board/Commission Approval**
2. **One Physical Meeting Location** (at least) for members who are not participating remotely and the public.
3. **One Staff Member** (at least) of the local behavioral health agency or of the governing body shall be present at the physical meeting.
4. **Public Participation** must be facilitated, allowing the public to remotely hear and visually observe the meeting.
5. **Disclosure of Individuals Present who are 18 years of age or older**.
6. **Members must appear on camera** (with exceptions due to disability or technical difficulties (that can be remedied by turning off their camera))

*7. **An elected official** serving as a member of an eligible subsidiary body in their official capacity shall not participate unless their use of teleconferencing complies with the requirements of GOV 54953 (b)(3).

Alternative Teleconference Rules

State of Emergency

State of Emergency: Local boards/commissions may conduct teleconference meeting(s) during a proclaimed state of emergency or local emergency (proclaimed by the governing body). (Gov Code 54953.8.2.)

The board/commission may convene by teleconference:

1) **Majority Vote:** In order to determine by majority vote whether as a result of the emergency, meeting in person would present imminent risks to health or safety of attendees.
2) **After a determination** described in item (1) is made that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3) **Reduced technology required:** The board/commission conducting a teleconference meeting pursuant to this section may elect to use a two-way telephonic service without a live webcasting of the meeting.
4) **45 Day Majority Vote:** The board/commission may re-instate the emergency allowance every 45 days by majority vote to continue conducting teleconference meetings pursuant to this section.

“Just Cause” Allowances

Local board and commission **members may participate by teleconference without providing a physical meeting address** if all of the following requirements are met:

1. **Quorum at a singular physical location** within the county or jurisdiction that is open to the public. (*Exception for members with disabilities attending remotely*.)
2. **Member request** may be at the earliest opportunity possible, including at the start of the meeting, and should include a general description of the circumstances relating to their need to participate remotely.
3. **Both Audio & Visual Participation** by member(s) attending remotely.
4. **Meeting minutes** must include the reason that member(s) relied upon to participate remotely.
5. **Limits to Remote Participation:**
   - 2 meetings per year, if regular meetings occur once per month or less.
   - 5 meetings per year, if regular meetings occur twice per month.
   - 7 meetings per year, if regular meetings occur three or more times per month.
   - For the purpose of counting meetings, a “meeting” is defined as any number of meetings that begin on the same calendar day.

"Just Cause" Allowances *Continued*

"Just Cause" Includes:

1. **Childcare or caregiving** need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.
2. **Contagious** illness that prevents a member from attending in person.
3. **A need related to a physical or mental condition** that is not subject to disability allowances. **(See Slide 9)**
4. **Official Travel:** Travel while on official business of the legislative body or another state or local agency.
5. **Immunocompromised Family Member:** An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner of the member that requires the member to participate remotely.
6. **Physical or family medical emergency** that prevents a member from attending in person.
7. **Military service obligations** that require the member to be at least 50 miles outside the boundaries of the local agency.

Frequently Asked Questions

Closed Meetings - Is it permissible to conduct "Closed Meetings"? **Yes & No**, closed meetings are allowed under certain conditions. See the Brown Act Guide, Page 6

Conference Attendance - If individual members attend a conference called by someone else, is this covered by the Brown Act? **No**, as long as they do not discuss specific business matters within their jurisdiction. The best practice is to sit apart from one another.

Lack of Quorum - A board, commission or a standing committee meeting has less than a quorum. Is it still required to meet openly? **Yes**, if it has either a set meeting schedule or a continuing subject matter jurisdiction, it is required to meet openly. (A quorum is required for members to conduct a vote.)

Retreats - Are board/commission retreats subject to Brown Act Rules? **Yes**, if it is a meeting of a local board, commission or a standing committee, the event is subject to the requirements of the Brown Act.

Serial Meetings - Members use individual contacts to collectively decide an issue related to the *subject matter* of the board/commission. Is this a violation? **Yes,** information communicated to a quorum through a series of contacts (such as: individual phone calls ("daisy chain"), emails, chat messages, or a third person ("spoke and wheel")) is prohibited by the Brown Act.

THANK YOU for serving on or supporting a local mental or behavioral health board or commission!

Questions?

CALBHB/C Resources

Resources:
www.calbhbc.org/resources

On-line Training & Handbooks:
www.calbhbc.org/training

Issue Briefs and more:
www.calbhbc.org/training

CA Association of Local Behavioral Health Boards and Commissions supports the work of CA's 59 local mental/behavioral health boards and commissions.