



The Ralph M. Brown Act



County of Los Angeles

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INTENT

“The people of this State do not yield their sovereignty to the agencies which serve them. 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. The people insist on remaining informed so that they may retain control over the instruments they have created.”

Gov. Code, § 54953(a)

THE HEART OF THE BROWN ACT

“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, except as otherwise provided in this chapter.”

Gov. Code, § 54953(a)

APPLIES TO

LOCAL:

Includes cities, counties, school districts, etc.

LEGISLATIVE BODIES:

Governing Bodies, such as:

- Boards of Supervisors
- City Councils
- School Boards

GROUPS CREATED BY THE BOARD:

Commissions

Committees

Task Forces

APPLIES WHEN

There is a gathering of a majority (or quorum) of the members of the legislative body to:

1. HEAR

Listening to staff reports or watching a movie.

2. DISCUSS

Does not require any action be taken.

3. DELIBERATE

Making decisions on any item of business that is within the subject matter jurisdiction of the body.

NOTE: Newly elected members of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office.

SUBSIDIARY BODIES

Standing Committee

- Less than a quorum of members
- Includes other individuals not on the legislative body
- Advisory or Decision-making
- Continuing jurisdiction over a particular subject matter
- Fixed meeting schedule

BROWN ACT APPLIES

Ad-Hoc Committee

- Less than a quorum of members
- Comprised solely of less than a quorum of the members
- Advisory only
- Short-term
- No fixed meeting schedule

BROWN ACT **DOES NOT** APPLY

EXCEPTIONS

THE BROWN ACT DOES NOT APPLY TO:

- Individual Contacts
- Meetings of Public Agency Employees (e.g., staff meetings)
- Conferences or Similar Gatherings Open to the Public
- Community Meetings Organized by a Person/Organization Other than the Local Agency
- Meetings of Other Legislative Bodies (e.g., BOS attend City Council Meeting)
- Purely Social or Ceremonial Events
- Meetings of Standing Committees of that Body, with the Non-Members attending only as Observers
- Grand Jury Testimony

PROVIDED that a majority of members do not discuss business among themselves, other than as part of the scheduled program.

MEETING TYPES

REGULAR MEETING:

Occurring at the dates, times, and location set by resolution, ordinance, or other formal action.

- Agenda must be posted **72 hours** in advance.

SPECIAL MEETING:

Called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda.

- Agenda must be posted **24 hours** in advance.

EMERGENCY MEETING:

Limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.

ADJOURNED MEETINGS:

Regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the adjournment order, with no agenda required for regular meetings adjourned for less than 5 calendar days, as long as no additional business is transacted.

AGENDA

DETAIL:

- Agenda items must have enough detail to give the public a reasonable idea of what will be discussed or acted upon.
- Each item of business to be discussed must be on the agenda.
- Generally, if an item is not on the agenda, it cannot be discussed.

LOCATION

- List location of meeting and where to inspect documents.

ADDING TO THE AGENDA/EXCEPTIONS

After agenda is **posted**, an item may be added under one of the following scenarios:

- When a majority decides there is an "emergency situation" (as defined for emergency meetings).
- When two-thirds of the members present (or all members if less than two-thirds are present) determine:
 - that there is a need for immediate action; and
 - the need to take action "came to the attention of the local agency subsequent to the agenda being posted."

EXCEPTIONS TO THE AGENDA REQUIREMENT

- May briefly respond to statements made or questions posed by persons exercising their public testimony.
- On their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on their own activities.
- A member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.
- To consider action on a request from a member to participate in a meeting remotely due to emergency circumstances if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.

PUBLIC COMMENT

Fair and reasonable rules may be adopted to assist the body in processing comments from the public.

- Regulating time is OK if reasonable.
- Regulating content is not OK.
- At least twice the allotted time should be provided to a member of the public who utilizes a translator, unless simultaneous translation is utilized.

Public comment is not a debate.

PUBLIC'S RIGHTS

Brown Act gives members of the public the right to:

- Not give their name as a condition precedent to attend.
- Record the meeting.
- Comment and criticize..

Members of the public must be allowed to comment on:

- Any agenda item, before or during the consideration of the item; and
- On any matter within the Board's jurisdiction.

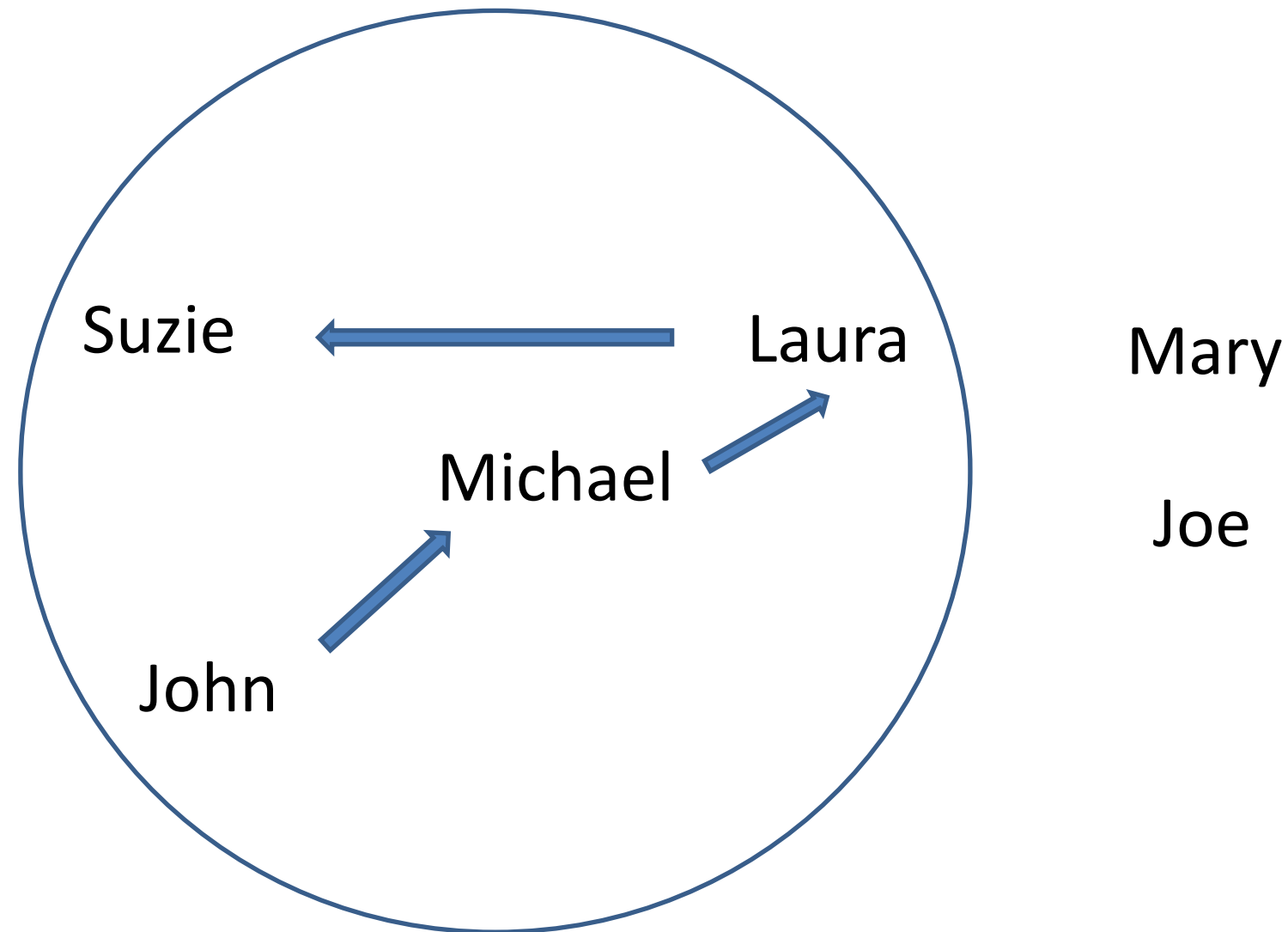
DISORDERLY CONDUCT (SB 1100)

- The presiding member of a legislative body or their designee may remove or cause the removal of an individual for disrupting a meeting.
- Disrupting a meeting means engaging in behavior during a meeting that actually disrupts, impedes, or renders infeasible the orderly conduct of the meeting.
- Removal must be preceded by a warning and a reasonable opportunity to cease the disruptive behavior.
- No warning is needed if the disruptive behavior includes use of force, threats of force, intimidations, or threats against another person's free exercise or enjoyment of any right secured by law.
- If order cannot be restored after ejecting disruptive persons, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting.

SERIAL MEETINGS

- A serial meeting is typically a series of communications (face-to-face, telephone, e-mail, text, social media), each of which involves less than a quorum of the body, but which taken as a whole, involves a majority of the body's members.
- **General Rule:** A majority may not use a series of communications, directly or through intermediaries, to discuss agency business.

Example: 6-member committee, 4 members (quorum) communicate indirectly on matters related to the body's business.



SOCIAL MEDIA (AB 992)

- **APPLICABILITY:** Applies to internet-based social media platforms that are "open and accessible to the public." Includes (without limitation): Facebook, X, Instagram, etc.
- **BRIGHT LINE RULE:** A member cannot respond directly to any communication on an internet-based social media platform regarding a matter within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member.
- AB 992 provides a stricter rule regarding communications on social media platforms because it prohibits communications even between two members of a legislative body. This is a change because under general circumstances, a single contact between one public official and another would not constitute a prohibited meeting.

Permitted

- Engaging in "separate" communications with the public using a social media platform that is open and accessible to the public regarding a matter within the subject matter jurisdiction of that body, provided that a "majority" do not discuss among themselves business of a "specific nature."
- A member of a legislative body may use social media to discuss personal matters with another member of a legislative body.

Prohibited

- A majority of a body may not use internet-based social media platform to discuss agency business.
- A member may not "respond directly" to any communication posted or shared by another member regarding agency business on an internet-based social media platform (i.e., no likes, thumbs up, emojis, or other symbols).

TELECONFERENCING: TRADITIONAL RULE

- At least a quorum of the legislative body participates from locations within the local agency's jurisdiction.
- Each teleconference location:
 - Is identified in the notice and agenda of the meeting;
 - Has agenda posted;
 - Is accessible to the public with technology, such as a speakerphone, to enable public participation;
 - Agenda provides opportunity for the public to address the legislative body directly; and
 - Is ADA compliant.
- All votes must be by roll call.

Remote Appearances (AB 2449)

For “just cause” or “emergency circumstances”

- **QUORUM:** A quorum of members must attend in person at a singular location.
- **ACCESS:** Must provide access to a two-way audio-visual platform or a two-way telephonic service.
- Disclosing the identity of any persons aged 18 and older present in the room and the general nature of the relationship of the member to that individual;
- No action can be taken on agenda items if remote connection is disrupted.
- Member appearing remotely must participate using both audio and visual technology.
- All votes taken during a teleconferenced meeting shall be by roll call.

TIPS FOR APPEARING REMOTELY:

- Notify Executive Director or staff of need to appear remotely as soon as possible.
- For emergency circumstances, place request to appear remotely on the agenda, if possible.
- For both, member should give general description of need to remotely appear.
- Emergency circumstances remote appearance requires vote of the body.
- Member seeking to participate remotely for emergency circumstances should not participate in the vote approving it.

Just Cause

- Childcare or caregiving of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely;
- A contagious illness that prevents a member from attending in person;
- A need related to a physical or mental disability; or
- Travel while on business of the legislative body or another state or local agency.

A member seeking to appear remotely for “just cause” must notify the legislative body at the earliest opportunity and provide a general description of the circumstances necessitating their remote appearance.

A “just cause” remote appearance can only be made for 2 meetings per calendar year.

Emergency Circumstances

“**Emergency circumstances**” means a physical or family medical emergency that prevents a member from attending in person.

- A member must request the legislative body allow them to appear remotely due to emergency circumstances and the legislative body must take action to approve the request.
- The legislative body must request a general description of the circumstances relating to the member's need to appear remotely.
- The description generally does not need to exceed 20 words and a member is not required to disclose a medical diagnosis or disability.

REMOTE APPEARANCES (AB 2449 & (AB 2302)

Effective January 1, 2025, remote participation can be used as follows:

- Two meetings per year, if the legislative body regularly meets once per month or less.
- Five meetings per year, if the legislative body regularly meets twice per month.
- Seven meetings per year, if the legislative body regularly meets three or more times per month.

Teleconferencing During State (Not Local) Declaration of Emergency (AB 557)

Remote participation is allowed without having to comply with the traditional teleconferencing rules (i.e., posting of agendas at all teleconference locations; identifying each teleconference location in the agenda; making each location accessible to the public; and quorum participating from locations within the boundaries of the local agency) during the following circumstances:

- a) A legislative body holds a meeting **during a proclaimed state of emergency** to determine, by majority vote, whether **as a result of the emergency**, meeting in person would present imminent risks to the health or safety of attendees; or
- b) A legislative body holds a meeting **during a proclaimed state of emergency** and has determined, by majority vote, that, **as a result of the emergency**, meeting in person would present imminent risks to the health or safety of attendees.

Teleconferencing During State (Not Local) Declaration of Emergency (AB 557) (Continued)

If the state of emergency remains active, to continue to teleconference under AB 557, a legislative body shall, not later than 45 days after teleconferencing for the first time, and every 45 days thereafter, make the following findings by majority vote:

- a) A legislative body has reconsidered the circumstances of the state of emergency; and
- b) The state of emergency continues to directly impact the ability of the members to meet safely in person.

Closed Sessions

A meeting of a legislative body conducted in private without the attendance of the public or press.

A legislative body is authorized to meet in closed session only to the extent expressly authorized by the Brown Act.

Certain announcements are made before and after closed session.

Examples of Permissible Topics

- Exposure to litigation; initiation of litigation; existing litigation
- Real estate negotiations
- Public employment, such as to consider the appointment, evaluation of performance, discipline of a public employee
- Labor negotiations

Violating the Brown Act

CRIMINAL PENALTIES

- A knowing violation is a misdemeanor when an action is taken in violation of the Brown Act.

CIVIL REMEDIES

- Any interested person may bring a lawsuit for declaratory and injunctive relief and to invalidate certain actions.
- Opportunity to cure and correct.
- Costs and attorney fees awarded.

Questions