

JAN. 10, 2024

FARMWORKER
ADVISORY
COMMISSION

The Ralph M. Brown Act



Core of the Brown Act

Public business must take place in public meetings.

“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.”

California Government Code section 54953

“Meetings” under the Brown Act

Any congregation of a **majority** of the members of the legislative **body at the same time and place** to hear, discuss, or deliberate on **any matters within its jurisdiction**.

What this means: Any time a majority of FAC members gather to discuss agency business, that is a “meeting” under the Brown Act. The meeting must be public, have an agenda, provide opportunity for public comment, and meet other requirements.

Includes in-person and electronic communications.

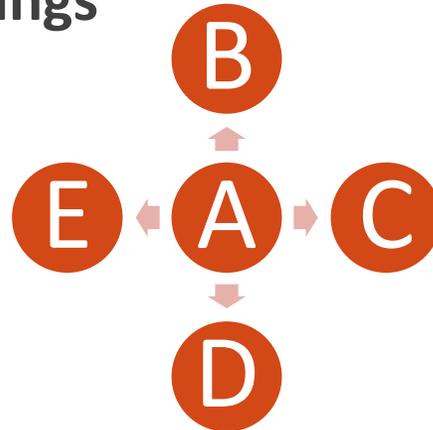
Brown Act traps

❖ “Reply All” emails

❖ “Serial” meetings

❖ Member A → Member B → Member C → Member D → Member E

❖ “Hub and spoke” meetings



The Brown Act & Social Media (AB 992)

DO use social media to communicate with *the public* about Commission business.

- ❖ Answer questions
- ❖ Provide information and updates
- ❖ Solicit information/feedback

DO NOT use social media to communicate with *other members* about Commission business.

- ❖ Comment on another member's post
- ❖ Like another member's post
- ❖ Share another member's post

Exceptions to the Brown Act

FAC members can gather, without triggering Brown Act requirements, for:

- ❖ Conferences open to the public*
- ❖ Social or ceremonial occasions*
- ❖ Public meeting of another agency*
- ❖ Individual meetings between members

**As long as members do not discuss commission business*

Remote meetings under the Brown Act

Before COVID-19 pandemic (Brown Act default rules):

- Meetings must take place in person.
- A member may join by teleconference, but only if the teleconference location is included on the agenda, and the public must be allowed to participate at that location.

During COVID-19 pandemic (State of Emergency, AB 361):

- California suspended Brown Act default rules to allow remote meetings to prevent the spread of disease.

Remote meetings under the Brown Act

Since March 1, 2023: Must return to in-person meetings, absent a state of emergency. (AB 2449)

- ❖ Back to Brown Act default rules
- ❖ But in limited circumstances, individual members can join remotely without making their location public.
 - Circumstances include caregiving needs, contagious illness, disability, traveling on official business for a government agency, emergency.
 - Can only be used twice per calendar year per member.
 - Legislative body must provide opportunity for public to participate remotely, too.

Other Brown Act Rules

- ❖ Detailed agenda must be posted 72+ hours in advance of the meeting
- ❖ Discussion at the meeting is limited to items listed on agenda
- ❖ Public has the right to attend the meeting
- ❖ Public has the right to comment at the meeting

Consequences for Brown Act violations

Rare, but possible:

- ❖ Lawsuits
- ❖ Criminal penalties
- ❖ Commission action gets voided

Common:

- ❖ Media & political scrutiny



A brief note on the Public Records Act...

“[A]ccess to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Gov. Code, section 6250.)

Government records shall be disclosed, upon request, unless a PRA exemption applies.

What this means: When creating any writing related to public business (email, text message, word doc, etc.), be mindful that the writing is likely a public record subject to disclosure.