



# **COUNTY ATTORNEY'S OFFICE**

SMC Agricultural Advisory Committee, June 2025

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## **THE BROWN ACT:**

California's Open Meetings Law

# BROWN ACT: BASIC RULE

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- All meetings of a legislative body of a local agency shall be open and public
- Exceptions are *few & narrowly construed*

# “LEGISLATIVE BODY”

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- 1) The governing body of the local agency; and
- 2) Any commission, committee, or board, permanent *or* temporary, decision-making *or* advisory, created by a formal act of the local agency; and
- 3) Governing body of certain private organizations created and funded by legislative body

# “AD HOC” vs. “STANDING” COMMITTEES

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- A temporary advisory committee composed solely of less than a quorum of the legislative body that serves a limited or single purpose
  - Sometimes referred to as “ad hoc committees”
  
- BUT “standing committees” are “legislative bodies” under Brown Act:
  - Continuing subject-matter jurisdiction; or
  - Meeting schedule fixed by formal action of body



# “MEETING”

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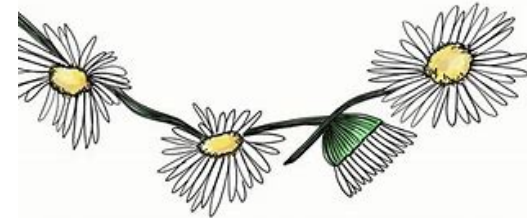
- 1) When a majority of the members;
- 2) Are present at the same time and place;
- 3) To “hear, discuss, deliberate, *or* take action”;
- 4) On any item within the subject-matter jurisdiction of the legislative body

# SERIAL “MEETINGS”

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Individual communications can become invalid serial “meetings” in two ways:

1) CHAIN: Member A contacts Member B,  
and Member B contacts Member C



2) INTERMEDIARY: An intermediary  
contacts a majority of members sharing  
information between members



# COUNTY STAFF COMMUNICATIONS

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- County staff may communicate with members of a legislative body:
  - in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of that body,
  - if that person does not communicate to members of the legislative body the comments or position of any other member of the legislative body

# “MEETING” EXCEPTIONS

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- Attendance by a majority of members at:
  - 1) An open and publicized conference
  - 2) An open and publicized community forum
  - 3) An open and noticed meeting of another legislative body
  - 4) A purely social or ceremonial occasion
  - 5) An open and noticed meeting of a standing committee of the body . . .



# NOT A “MEETING”

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. . . IF the members DO NOT discuss among themselves business that is within the subject-matter jurisdiction of their legislative body other than as part of the scheduled program/meeting

- For “standing committees”, attend only as observers

# “TRADITIONAL” TELECONFERENCING

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- Body may meet by teleconference, through audio or video or both, for all purposes, IF:
  - 1) All votes taken by roll call
  - 2) Each location identified in agenda, and agenda posted at each location
  - 3) Public access rights protected at each location
  - 4) At least a quorum of members participate from within the County

# “EMERGENCY” TELECONFERENCING

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- Allows legislative bodies to conduct meetings via teleconference without adhering to most “traditional” rules, **IF**:
  - Declared state of emergency; and
  - Meeting in person would present imminent risks to the health or safety of attendees



# “EMERGENCY” TELECONFERENCING

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- ❑ The legislative body reconsiders and makes findings within every 45 days on the need to continue to meet remotely
- ❑ Agency must provide notice and opportunity for public to participate remotely
- ❑ Physical meeting location not required
- ❑ Roll call vote still required

# “NEW” TELECONFERENCING

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- Authorizes less than a majority to participate remotely under limited “just cause” or “emergency” circumstances
- Quorum of the body must participate from a single physical location within body’s jurisdictional boundaries that is open to the public and identified in the agenda
- Agency must provide notice and opportunity for public to participate remotely

# “NEW” TELECONFERENCING

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- “Just cause” means (1) child care or other caregiving of immediate family; (2) a contagious illness; (3) need related to physical or mental disability; or (4) travel while on government business
- **Process:** The member notifies the legislative body at the earliest possible opportunity, including at the start of a regular meeting, of their need to participate remotely for “just cause,” including a general description of the relevant circumstances

# “NEW” TELECONFERENCING

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- “Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person
- **Process:** The member requests the legislative body to allow them to participate in the meeting remotely due to “emergency circumstances,” and the legislative body takes action to approve the request
  - Request must be agendaized with general description of the relevant circumstances of request (excluding personal medical information) if time allows

# “NEW” TELECONFERENCING

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- Members participating through remote teleconferencing must:
  - 1) participate through both audio and visual technology; and
  - 2) disclose at the meeting whether any other individuals 18 years of age or older are present in the room at the remote location and the general nature of the member’s relationship with the individual

# “NEW” TELECONFERENCING

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- Member may not use the “just cause” provisions for more than two meetings per calendar year
- Member may not participate in meetings by teleconference due to “just cause” *or* “emergency circumstances” for a period of more than:
  - two meetings per year if the body meets regularly once per month or less



# REGULAR MEETINGS

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- ❑ Must be held at the time and place set by ordinance, resolution, or by-laws
- ❑ Agenda posted at least 72 hours in advance
- ❑ Each agenda item must be briefly described



# SPECIAL MEETINGS

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- May be called by presiding officer of legislative body (Chairperson) or a majority of the members
- Written notice to each member of body, local newspaper, and posted on agency website 24 hours before meeting



# NON-AGENDA ITEMS

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- “Briefly respond” to public comment
- Ask a question for clarification
- Make a brief report on own activities
- Provide reference for factual information
- Request that staff report back or that an item be placed on future agenda

# BROWN ACT AND ACCESSIBILITY

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- ❑ Basic rule: Meetings must be accessible per ADA - “reasonable accommodations”
- ❑ Agendas must be made available in appropriate alternative formats upon request
- ❑ No meetings at location that is “inaccessible to disabled persons”



# RIGHTS OF THE PUBLIC

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- Right to attend meetings without registering name or providing other information
- Right to record proceedings with camera, audio or visual recorder, unless persistently disruptive
- Right to address the body on each item of business on the agenda and any other matter of public interest



# RIGHTS OF THE PUBLIC

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- Right to criticize the County's policies, procedures, programs, or services, as well as employees and officers acting within the scope of their official capacity
- Right to inspect/obtain agendas and any other non-exempt writings made available to a majority of members at the meeting



# REMEDIES

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- Civil Action
  - Opportunity to cure
  - Stop future violation or invalidate past violation
  - Attorneys' fees and costs recoverable
  
- Criminal Charges
  - Misdemeanor
  - Requires intent to deprive public of information



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QUESTIONS?