

# Butte College Brown Act Training

## A. Brown Act Objectives and Legislative 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<sup>1</sup>.”*

1. Origin: 1950’s SF Chronicle expose’ on “Secret Meetings” by public agencies.
2. Promotes Transparency & Public Trust through...
  - a) public access to meetings, including attendance and participation in discussions; and
  - b) open deliberations and action by local legislative bodies.

## B. Brown Act Requirements

(Legislative Body) × (Meeting) = Noticed Agenda

1. Legislative Bodies... decision-making and advisory
  - a) Elected;
  - b) Appointed by formal action of an elected body;
  - c) Standing subcommittees w/continuing subject matter jurisdiction; **or** meeting schedule fixed by resolution.
2. Ad Hoc Committees... appointed by Chair/non-Brown Act
  - a) advisory, of limited duration, dissolved once task is complete;
  - b) consist of less than a quorum (only!) – if community members are included, the committee isn’t *ad hoc* (*latin* “for this” specific purpose).
3. Meetings...
  - a) “...**any congregation of a majority** of the Members of a legislative body at the same time and location... to **hear, discuss or deliberate** upon any item that is within the subject matter jurisdiction of the legislative body<sup>2</sup>...” **OR**
  - b) use of a **series of communications** to deliberate, discuss, or take action on business.
4. Non-Meetings defined by statute...
  - a) individual contacts, social/ceremonial/community events;
  - b) staff consultations, ad hoc committees, conferences, etc.

## C. Common Brown Act Violations

*“A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body<sup>3</sup>.”*

1. Serial Meetings...
  - a) Daisy Chain: A ⇌ B ⇌ C, etc.
  - b) Hub and Spoke.
  - c) Forwarding/Responding to emails in series or parallel.
2. Misuse of Social Media...
  - a) Example: Facebook post by a committee member “**liked**” by other members or “retweeting” comments of other members.
  - b) AB 992 (2021) clarifies communications via social media, allowing members to “*answer questions, provide information to the public, or to solicit information from the public on a matter that is within the subject matter jurisdiction of the legislative body*” but prohibits members from responding directly or “*engaging in discussion amongst themselves via social media.*”

#### D. Meeting Requirements

*“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<sup>4</sup>.”*

1. Time & Place...
  - a) regularly scheduled within the confines of the District (*i.e. District property*).
2. Noticed Agenda...
  - a) brief general description (20 words or less) for each item;
  - b) posted publicly with meeting related documents:
    - i. regular = 72 hrs. in advance
    - ii. special = 24 hrs. in advance
    - iii. emergency = 1 hr. in advance
    - iv. “dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body<sup>5</sup>...”
3. Items not on the agenda...
  - a) no discussion or action allowed;
  - b) limit responses to public comments to information already publicly available – the best practice is not to respond to public comments unless the issue requires a response;
  - c) committee members must refrain from engaging in discussions on non-agendized topics;
  - d) requests to place items on future agendas are allowed.

#### E. Public Right to Comment and Participate

*“regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body’s consideration of the item... However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee...”<sup>6</sup>”*

1. Public Testimony & Comment...
  - a) Public comment on any subject within the jurisdiction of the body;
    - i. before or during consideration of agendized item;
    - ii. during public participation portion of regular meeting.
  - b) Committee members may only comment on agendized items.

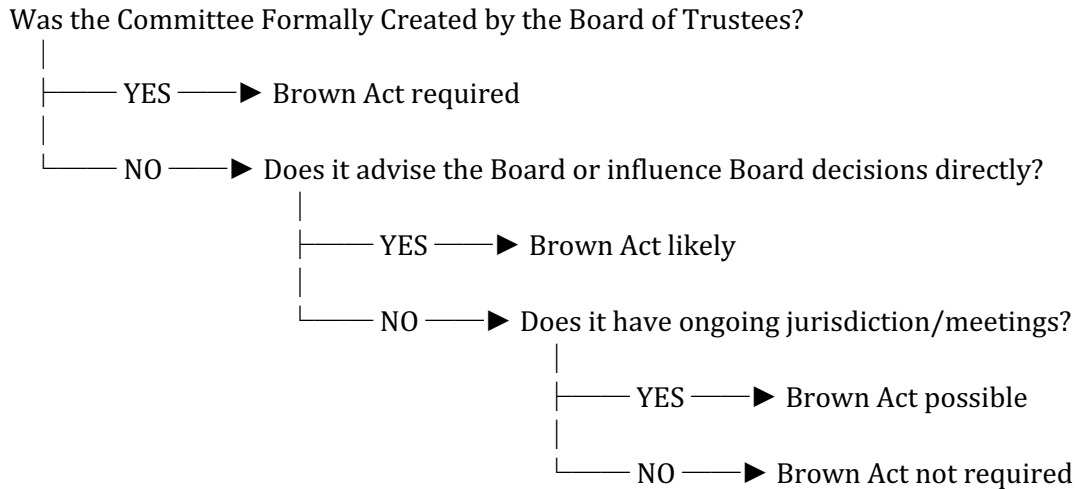
#### F. Factors Determining Brown Act Applicability

1. Committee Origin
  - a) Committees explicitly created or recognized through Board resolutions, policies, or official votes are typically subject to the Brown Act.
  - b) Committees established informally by administration or governance bodies (e.g., Superintendent/President, Vice Presidents, etc.) without explicit Board authorization or mandate are generally not subject to the Brown Act.
2. Committee Authority
  - a) Committees that make decisions, adopt policies, allocate resources, or provide recommendations with formal weight in Board actions are likely subject to the Brown Act.
  - b) Committees strictly providing advisory input to an individual, without direct BOT influence are not usually subject to the Brown Act.
  - c) Legislative/Statutory Mandates: committees formed in direct response to specific California Education Code mandates require careful examination. If they are formally established by the governing board and/or influential in board policy decisions, they likely fall under the Brown Act.

### 3. Committee Jurisdiction

- a) Committees with standing jurisdiction and regular meeting schedules are possibly subject to the Brown Act.
- b) Temporary/ad hoc, task-specific groups are usually exempt from the Brown Act.

#### Brown Act Decision Tree



### 4. When in Doubt

Committees uncertain about their Brown Act status, particularly those whose creation and authority involve both administrative and board-level interactions, should consult the district's legal counsel for a formal determination.

#### G. Summary: what does it all mean? Abiding by the Brown Act isn't complex...

1. Read & Prepare: agenda and documents provided at least 72 hours before regularly noticed meetings. Constituent feedback may be solicited at any time.
2. Limit All Discussions Outside of Open Meetings: discuss all items during open meetings so that all committee members and the public are involved and may benefit from the discussion. Refrain from discussions outside of meetings to avoid serial violations. These opaque actions violate the public trust.
3. Follow Parliamentary Procedures: discuss agenda items in an orderly fashion giving all participants an equal opportunity to speak and be heard. Strive for full, open discussion (including that from members of the public) prior to action.

#### References

1. *The Ralph M. Brown Act, CA Gov. Code, § 54950*
2. *Ibid CA Gov. Code § 54952.2*
3. *Ibid CA Gov. Code § 54952.2 (b) (1)*
4. *Ibid CA Gov. Code § 54953 (a)*
5. *Ibid CA Gov. Code § 54956.5 (b) (2)*
6. *Ibid CA Gov. Code § 54954.3 (a)*

## Brown Act Remote Attendance Update: AB-2449 (2022)



California  
LEGISLATIVE INFORMATION

---

HomeBill InformationCalifornia LawPublicationsOther ResourcesMy SubscriptionsMy Favorites

---

**AB-2449 Open meetings: local agencies: teleconferences.** (2021-2022)

SHARE THIS:  

Date Published: 09/14/2022 09:00 PM

**Assembly Bill No. 2449**

CHAPTER 285

An act to amend, repeal, and add Sections 54953 and 54954.2 of the Government Code, relating to local government.

[ Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2449, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act generally requires posting an agenda at least 72 hours before a regular meeting that contains a brief general description of each item of business to be transacted or discussed at the meeting, and prohibits any action or discussion from being undertaken on any item not appearing on the posted agenda. The act authorizes a legislative body to take action on items of business not appearing on the posted agenda under specified conditions. The act contains specified provisions regarding providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

### Two Options for Remote Attendance...

1. Current teleconference procedure:
  - a. all locations listed on the agenda & posted at each site;
  - b. public attendance allowed at all posted locations;
  - c. all votes taken by rollcall; and
  - d. quorum must be present at primary meeting location.
2. New "just cause" exception:
  - a. state cause (caregiving, contagious illness, medical need, travel on official business) when the meeting begins;
  - b. quorum majority must vote to accept "just cause" request;
  - c. audio & video must be "live" for all participants;
  - d. remote member must announce relationship w/any adults present at their location; and
  - e. cannot be used for more than 20% of regular meetings.