

# KNOW YOUR RIGHTS

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## CALIFORNIA PUBLIC MEETINGS



# Accessing & Participating in Public Meetings in California

*Presented by David Loy, Monica Price, and Ginny LaRoe*



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## California Constitution

“The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny”

*Article 1, section 3(b)*



## Ralph M. Brown Act

“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.”



# **The Brown Act's open meetings requirements apply to:**

Meetings of local “legislative  
bodies,” such as:

- Board of Supervisors
- City Council
- School Board
- Water District
- Police Commission



# What about all of the other local and state government meetings and proceedings?

- California Public Utilities Commission
- California Legislature
- Courts

*Those proceedings/meetings are still open to the public by other laws or rules (details may vary, including right to record/speak)!*



# **Frequently asked question:**

**How do you know if the Brown Act applies to a certain legislative body or committee?**



# Open Meetings Laws in Practice: Your Rights Under State Law



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# Basic Principles

- Meetings must be “open and public,” generally
- Action taken in violation of open meetings laws may be voided.



# **Open Meetings: Key Provisions of the Ralph M. Brown Act**

1. Agendas must be posted at least 72 hours in advance
  - less for “special meetings” or “emergency meetings”
2. Votes must be public — NO secret ballots
3. “Sign in” cannot be required to attend, though sign in may be required for members of the public wishing to speak



## **Open Meetings: Key Provisions of the Brown Act (cont.)**

- 4. You are allowed to make audio and video recordings of meetings, so long as recording is not “disruptive.”**
- 5. If the agency records its own meetings, you are entitled to view/listen to that recording**



## **Open Meetings: Key Provisions of the Brown Act (cont.)**

6. **Closed sessions: allowed, but only for limited, specific reasons that must be stated on the meeting agenda.**
7. **Agency must treat all documents distributed to all or a majority of members as public and make them available unless they are exempt under the Public Records Act.**

# QUESTIONS

*Next topic: Public comment*



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## Public Comment: Your Right to Speak Out

### *Understanding the intersection of the Brown Act and the First Amendment*

- You have the right to address the body in real time during the meeting (can't **require** written comment in advance)
- You have a right to speak about an item **before** or during consideration of that item (ex. proposed ordinance)
- You can speak about topics not on the agenda but **the body cannot discuss** or take action on non-agendized topics



## **Public Comment: Limits**

- **Comments can be limited as to content or topic:**
  - **Matters within the agency's jurisdiction (school board doesn't have to allow comment about city's potholes)**
  - **Specific item on the agenda (if agenda item 1 is under discussion, city council can limit comments about item 4)**

## Public Comment: Limits

- Comments can be limited as to time & manner
  - Brown Act: "reasonable regulations ... including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker"
  - In practice, often 1-3 minutes per speaker



# **Underscoring Your First Amendment Rights**

Limits imposed by the government can't be based on viewpoint, such as for or against item, praise or criticism of agency's actions.

This is a First Amendment protection.



## **Public Comment & Language Access**

- **Language access: Commenters speaking through interpreters get at least twice the minimum allotted time (unless body is using its own “simultaneous translation equipment”)**
- **Does the law require interpreter services? The Brown Act does not require the government provide language interpretation services at meetings**

## **State Law Minimum Requirements v. Local Practices**

- **The Brown Act sets out minimum standards for local governments**
- **Some bodies may exceed the minimums by posting agendas published earlier than state law requires, offering longer public comment times, interpreter services, etc.**
- **Tip: Know the local operating policies, which may vary from body to body in a community**
- **Tip: Know if the meetings you attend adhere to a local Sunshine Ordinance (ex. San Francisco Sunshine Ordinance)**

## Limits: Public disruption of meetings

- No legal right to engage in actual disruption, for example, exceeding allotted time, shouting over others
- A tactic used by some activists

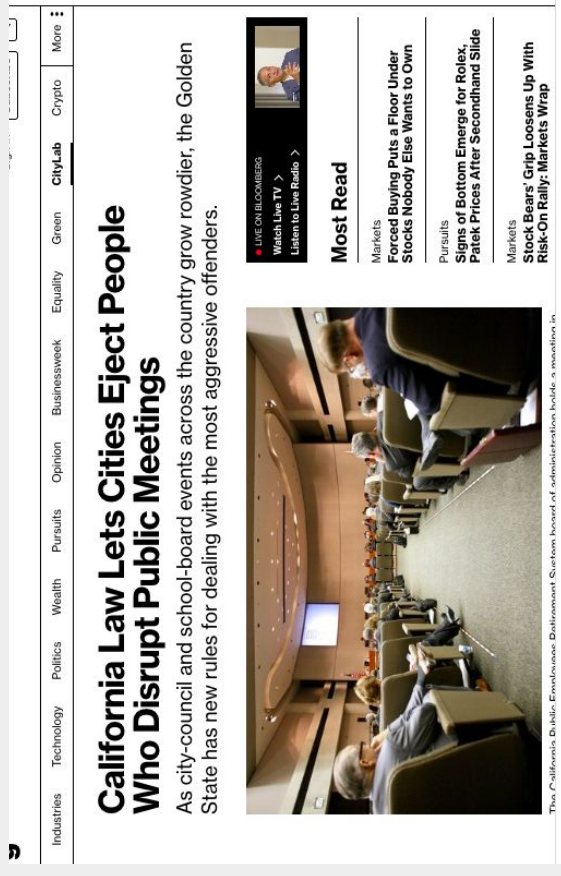
 Protesters continue to disrupt National City meetings; demand answers



National City police declared a meeting out of order after it was disrupted by protesters Tuesday. (David Hernandez/ San Diego Union-Tribune)

# New state law on “decorum” allowing gov’t to eject disruptors

- 1) Gov’t must warn individual unless they are using force or making true threat to use force
- 2) Removal OK if they don’t “promptly” stop disruptive behavior
- 3) Removal can be initiated if they don’t comply
- 4) Alternative to clearing meeting chambers entirely



The screenshot shows a Bloomberg news article. The main headline is "California Law Lets Cities Eject People Who Disrupt Public Meetings". Below the headline is a sub-headline: "As city-council and school-board events across the country grow rowdier, the Golden State has new rules for dealing with the most aggressive offenders." To the right of the text is a photograph of a public meeting in progress, with several people seated around a large table. Below the photo is a small caption: "The California Public Employment Retirement System board of administration holds a meeting in..."

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## California Law Lets Cities Eject People Who Disrupt Public Meetings

As city-council and school-board events across the country grow rowdier, the Golden State has new rules for dealing with the most aggressive offenders.

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*“This is not a blank check for mayors or board presidents or presiding members to silence community members simply because they disagree with their viewpoints.” — David Loy*

## **What to do about Brown Act violations: Enforcement & Remedies**

- Ask a court to declare a body's action void (ex. if open meeting requirement violated, not properly noticed, etc)
- Bring lawsuit to declare a violation has occurred or stop body from repeating certain violations, such as unlawful restriction on public comment
- Complain to District Attorney's office, which has enforcement power
- Before a lawsuit is filed, a "cure and correct" or "cease and desist" letter is required (any person can submit)



# QUESTIONS

*Next topic: Teleconferencing/Remote Access*



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## ***Teleconference Meetings: When can Brown Act-governed meetings be held via Zoom?***

- If a body meeting in person, it is not required to provide remote access. The Brown Act doesn't prohibit bodies from providing remote access and COVID-19 proved it can increase access
- A body itself may operate entirely via remote technology only under the following circumstances:
  - State of emergency + social distancing measures (COVID-19)
  - If a locality wants to continue meeting remotely after state of emergency ends, body can make specific findings to continue (law sunsets 2024)





## **Teleconference Meetings (cont.)**

**If legislative bodies do operate via teleconference under those limited circumstances, they must:**

- **Provide a means for the public to participate remotely in the meeting in real time, and**
- **Provide notice of how to do so on the meeting agenda**

**Brown Act-governed bodies must not:**

- **Require comments to be submitted in advance of the meeting**



## **Teleconference Meetings**

*When can an individual member of a body participate remotely?*

**AB 2449 took effect Jan. 1, 2023**

- For the first time, gives members of a body the ability to participate remotely, without being physically present, even without a state of emergency
- There are strict limits on when the individual member may govern from the cloud (“just cause,” hard caps on number of meetings that can be missed)



## **Teleconference Meetings (cont.)**

*When can an individual member of a body participate remotely?*

- The body must still have a quorum in person in a publicly accessible place – there is still a meeting place for the public
- If a member of the body is granted permission to participate remotely, then the public must be given remote access also (Zoom, etc.)

# How Can FAC Be a Resource to You?

*FAC Legal Fellow Monica Price*



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# Tools for Civic Engagement: Brown Act Primer

[Brown Act Guide is Free On FAC's Website](#)



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# Tools for Civic Engagement: Cure and Correct Letter

Dear \_\_\_\_\_,

*This letter is to call your attention to what I believe was a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of the action taken by **(name of legislative body and local agency)**.*

*In its meeting of **(date)**, the **(name of legislative body)** took action to **(describe the action taken)**. In so doing, the **(name of legislative body)** took "action" as defined in Govt. Code 54952.6 because **(specify one or more of the following as appropriate)**:*

[Sample Cure and Correct Letter Available Here](#)



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# Tools for Civic Engagement: Free Resources for You!

FAC's **free** Legal Hotline provides information on public records requests, open meetings, access to court records and First Amendment issues.

[Legal Hotline Available Here](#)



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