

THE RALPH M. BROWN ACT

NOVEMBER 18, 2020
HIV PLANNING GROUP



Presented by:

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THE BROWN ACT'S PURPOSE

- ✓ **Transparency**
- ✓ **Public Access to Meetings**
- ✓ **Public Access to Deliberations**
- ✓ **Public Access to Documents**

HOW THE BROWN ACT ACCOMPLISHES ITS PURPOSE

- Broad definition of “legislative body”
- Broad definition of “meetings”
- Logistical requirements
- Notice requirements
- Meeting - Communication rules
- Sanctions

“LEGISLATIVE BODY”

Broad definition of “legislative body”

- Governing body of a local agency
- Local body created by state or federal statute
- A commission, board, or other body created by formal action of a legislative body

LEGISLATIVE BODY—TYPES

Governing Bodies

- Board of Supervisors; City Councils; School Boards

Appointed Bodies

- Advisory Committees, Planning Board

Standing Committees

- Permanent Council Subcommittees

New Members

- Newly elected or appointed members, not yet seated

MEETINGS—DEFINED

Broad definition:

A congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate on items within their subject matter jurisdiction.

MEETINGS - ACCESSIBILITY

- **Facilities:**
 - Americans with Disabilities Act
 - No discriminatory practices
 - No fees or charges to enter
- **Recording and Broadcasting:**
 - Allowed unless disruptive

MEETINGS - NOTICE

- Agenda - posted 72 hours before
- Must provide brief general description of items to be discussed or acted upon
- But specific enough to give notice
- Public may request mailing
- Agenda must provide ADA access info

BROWN ACT--WRITINGS

- Writing distributed to all or majority must be provided:
 - At least 72 hours before meeting--
available upon request without delay
 - Less than 72 hours before meeting--
posted at time of distribution

MEETINGS - CONDUCT

- Agenda must allow public comment on topics within Planning Group's subject matter but are not specific agenda items
- Public may address agenda items
- Reasonable time limits
- Public criticism must be allowed

MEETINGS - CONDUCT

Writings distributed to members:

- Available at meeting if prepared by local agency and given to all members
- Available after meeting if prepared by others
- Alternative formats for disabled

MEETINGS - CONDUCT

General Rule:

No action or discussion may be taken on any item not on the posted agenda.

except...

MEETINGS - CONDUCT

Exceptions to non-agenda discussion rule:

- Brief responses to public testimony
- Questions for clarification
- Brief announcements, reports on activities
- Referrals to staff
- Emergencies

MEETINGS – NON-REGULAR

- Closed Sessions – Not applicable
- Special Meetings – Not anticipated
- Emergency Meetings – Not anticipated
- Teleconferencing – Permitted, and many logistical hurdles are currently relaxed

TELECONFERENCE MEETINGS

Normal rules (Gov't Code § 54953):

- Agendas must be posted at each site, noting all teleconference locations.
- Each site must be accessible to public.
- Members of public at each site must have opportunity to address legislative body.
- Quorum of members must participate from locations within local agency boundaries.
- Votes must be by roll call.

TELECONFERENCE MEETINGS

Executive Order 29-20 suspended certain teleconference requirements due to the COVID-19 public health emergency, including:

- Agendas list the locations of all remote participants (such as a member's home).
- The public be allowed to speak at each location.
- A majority participate from within the jurisdiction of the entity

PERMITTED ACTIVITIES OUTSIDE NOTICED PUBLIC MEETINGS

Individual contacts with non-members;
conferences; other organization meetings;
social or ceremonial occasions

Do not discuss Planning Group issues with a
quorum of the Planning Group or a quorum
of a standing subcommittee outside of a
noticed public meeting

NO *SERIAL* MEETINGS

- Majority of members uses
- a series of communications
- of any kind
- directly or through intermediates
- to discuss, deliberate, take action or
- *develop “collective concurrence”*
- outside an authorized meeting

SERIAL MEETINGS - METHODS

Discussing/sharing views through a series of:

- Emails, Text messages
- Phone conversations
- Face-to-face conversations
- Intermediaries or polls
- Examples
 - Reply All
 - Chain: A contacts B; B contacts C ...
 - Hub & Spoke: A contacts B; A contacts C ...

SOCIAL MEDIA

AB 992 : Effective January 1, 2021

- **Allows** members to engage on social media to answer questions, provide or solicit information so long as a majority does not discuss among themselves
- **Prohibits** a member from responding directly to any social media on the internet of another member of the same legislative body on a subject matter within the jurisdiction of the shared board (No digital icons/emojis/tweets/sharing)

BROWN ACT SANCTIONS

- **Misdemeanor per Gov Code 54959**
- **Civil Actions per Gov Code 54960, etc.**