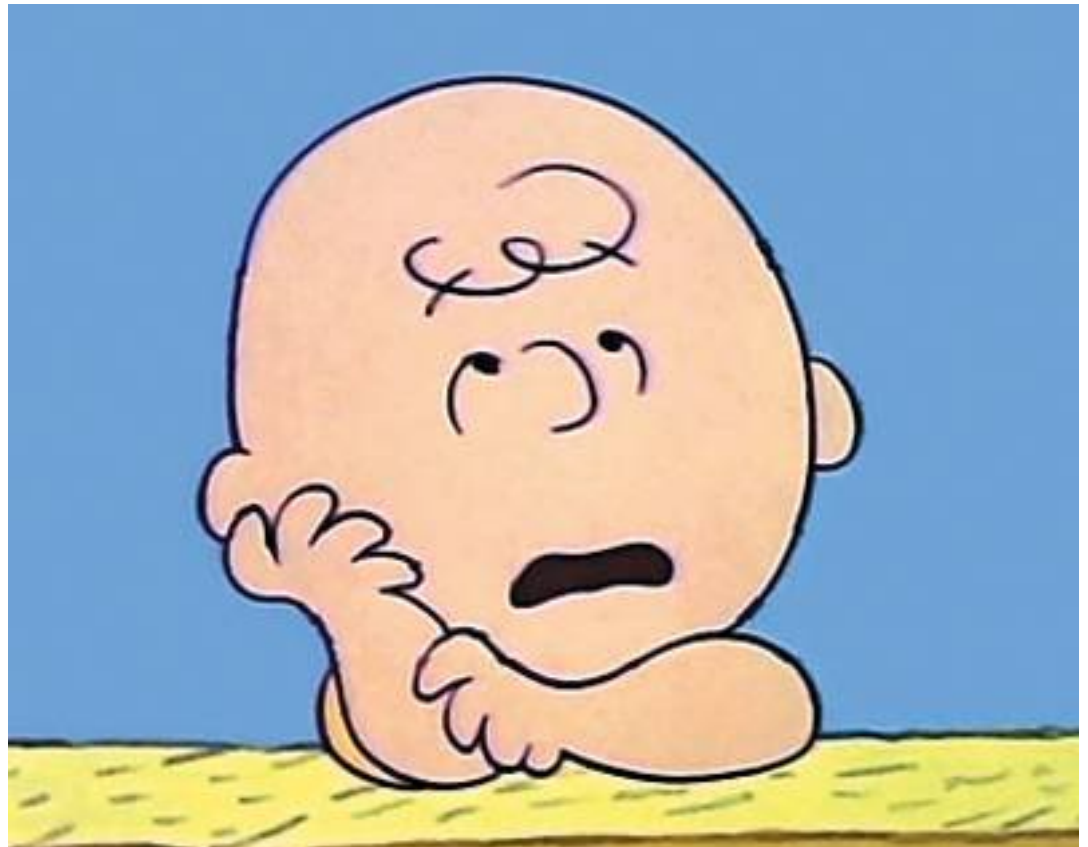


The Brown Act

The Law on Open Meetings in California

What is the Brown Act?

- California State Law
- Codified in California Government Code Sections 54950 – 54959
- Governs open meetings for local government bodies



A Brief History

- Authored by Assemblyman Ralph M. Brown
- Enacted in 1953
- Initial version contained only 686 words
- Now 30 pages
- In response to local government abuse
- No secret “workshops” or “study sessions”



Legislative Bodies Subject to Brown Act

- Governing bodies of local agencies (e.g., city council, county board of supervisors)
- Governing bodies of other local bodies created by state or federal statute (e.g., housing authority, air pollution control district, regional open space district)
- Appointed bodies (e.g., planning commissions, civil service commissions)
- Standing committees of legislative body
- Governing bodies of private organizations (if created by legislative body *or* funded *and* a member sits on board of private organization)

Not Legislative Bodies for Purposes of Brown Act

- Temporary advisory committees for limited purpose and composed of less than quorum of legislative body
- Groups advisory to single decision-maker or appointed by staff
- Individual decision-makers not elected or appointed members of legislative body
- County central committees of political parties

Meetings

Definition (Sec. 54952.2(a)):

- Congregation of majority of members
- At same time and place
- To hear, discuss, or deliberate upon
- Any item within subject matter jurisdiction of legislative body or local agency

Exempt under Brown Act

- Individual contacts between members and non-members
- Conferences addressing issues of general public interest
- Community meetings held by another organization
- Attendance of other legislative bodies
- Attendance at standing committees as observers
- Social or ceremonial events

Not Exempt under Brown Act

- Collective briefings in preparation for meeting
- Retreats or workshops of legislative bodies
- Serial meetings
 - “Daisy-chain”
 - “Hub-and-spoke”
 - Chat rooms
- Informal gatherings mixing business with pleasure
- Teleconferencing (following specific requirements, Sec. 54953)

Types of Meetings

- Regular meetings
 - Regularly scheduled board meetings
- Special meetings
 - Called by board majority to discuss specific issue
- Emergency meetings
 - To deal with emergency situations (Sec. 54956.5)

Notice/Agenda Requirements

- Regular Meetings
 - Agenda posted at least 72 hours before meeting
 - Brief general description of matter to be considered/discussed
- Special Meetings
 - 24-hour notice required
 - Notice to members of legislative body and media
 - Brief general description of matter to be considered/discussed
- Emergency Meetings
 - One-hour notice except in dire emergency
 - No agenda necessary

Non-Agenda Items

- Generally not to be discussed or acted upon
- Exceptions:
 - Majority decides there is “emergency situation”
 - Need for immediate action coming to attention of agency after posting of agenda
 - To be decided by 2/3 of members present or all, if less than 2/3 are present
 - Item was on agenda of continued meeting held not more than 5 days before

Public Attendance and Participation

- Agenda must allow public to speak on any item of interest
- Agenda must allow comments on specific items of business before or during consideration
- No right to comment on already considered agenda items
- Public criticism of acts or omissions, or agency policies, procedures, programs, or services is permitted (but not defamatory statements)
- Time limits on public comments
- Special meetings: Comments must be limited to agenda items

Closed-Session Meetings

- Decisions regarding employees (personnel exemption)
- Public security discussions with law enforcement
- Litigation advice of legal counsel
- Considerations of labor negotiations
- Discussions of price & payment terms of real estate transactions
- Closed sessions must be designated in agenda

Civil Remedies

- Any interested person or district attorney may file action
- Scope:
 - Injunctive, mandatory, or declaratory relief; or
 - To void action violating the Brown Act
- Written demand to cure and correct required within 90 days of violation (30 days if action was taken in open session in violation of agenda/notice requirements)
- Action must be filed 15 days after receipt of notice to cure or 15 days after expiration of time to cure, whichever is earlier
- Prevailing party may recover attorneys' fees & costs

Criminal Liability

Requirements:

- Liable member must attend meeting
 - Action is taken in violation of Brown Act
 - Intent to deprive public of information
 - Knowledge that public is entitled to information
- Punishable as misdemeanor by fine of up to \$1,000 or up to six months in county jail or both.