

BROWN ACT OF 1953
CA GOVERNMENT CODE §54950-54963

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Public Need Not Identify Self

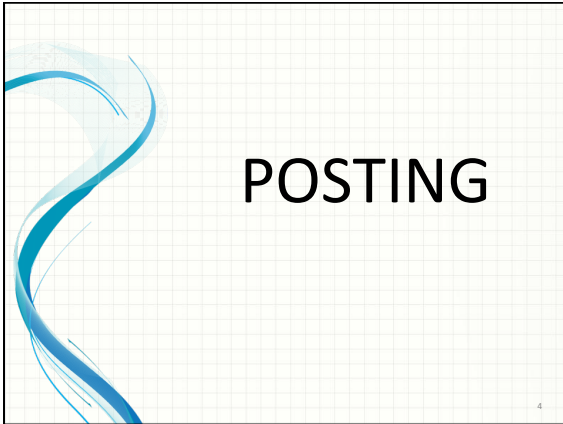
- A member of the public shall not be required as a condition of attendance to register or to supply any identification.
- If a sign in sheet is used, it shall clearly state that signing in is strictly **voluntary**.
- This includes the public on the phone line!
- §54953.3

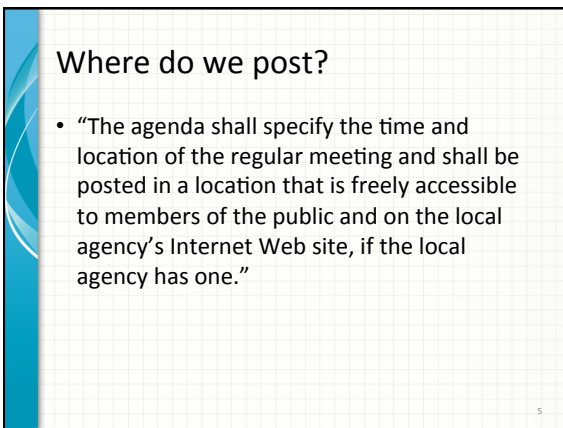
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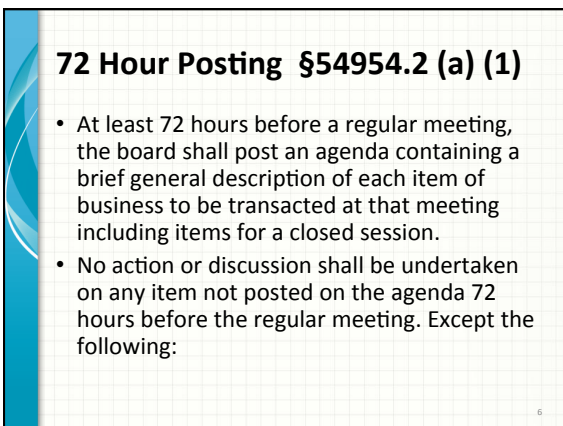
Agenda Packet

- Any person may request in writing that a copy of the agenda, or a copy of all the documents constituting the agenda packet, be mailed to that person for a fee.
- §54954.1

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Exception #1

- Upon the determination by a majority vote that an emergency situation exists.
- Forgetting to post the agenda on time is NOT an emergency!

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Exception #2

- Upon determination by a 2/3 vote (if less than 2/3 of the members are present, a unanimous vote is necessary) that there is a need to take immediate action, and that **the need of the action came to the attention of the board subsequent to the posting of the agenda.**

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Exception #3

- The item was posted for a prior meeting that occurred not more than 5 days before and the prior meeting was continued to the current meeting.

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- Does sending the agenda out through email count as posting?
- Who must email out the agenda to Board members?

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Social Media

- Is a group chat on social media a meeting?
- Is posting events on social media allowed?
- What if a constituent asks a question on social media?

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What is the difference between 72 hours and 3 days?

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What about changes to agenda items?

- How does the board increase or decrease monetary amounts on agenda items?
- What if you need to change the meeting location?

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Public may address the board (§54954.3 (a))

- Every agenda shall provide the public an opportunity to directly address the board. This is allowed before or during the board's consideration of an item.
- The public may speak on any topic that is within the subject matter jurisdiction of the board.
- However, the public need not be afforded an opportunity to speak on topics already discussed openly at a committee meeting where the public had an opportunity to speak.

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Time limits (§54954.3 (b))

- The board may adopt regulations to limit the total amount of time allocated for a particular issue and for each speaker as included on the posted agenda.

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**Public speaking prohibitions
(§54954.3 (c))**

- The board may not prohibit public criticism of policies, procedures, programs, services or acts of omissions.
- The Brown Act does not confer any privilege or protection for expression beyond that otherwise provided by law.

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**Special Meetings
(§54956 (a))**

- What goes on the agenda?
- When can you hold a Special Meeting?

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Secret ballot (§54953 (c))

- No action shall be decided by secret ballot.
- Every member's vote must indicate for/against/abstain.

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Public may record (§54953.5 (a))

- Any person shall have the right to record the proceedings with audio or video or both.
- The recording cannot disrupt the meeting with noise, illumination, or obstruction.
- If the board records the meeting, the board shall allow the public to inspect it on the board's equipment for up to 30 days.

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Closed session (§54954.5)

- Closed sessions are prohibited by the Brown Act except for 17 situations related to real property or labor negotiators, litigation, liability claims, employee (appointment, evaluation, or discipline), trade secrets, etc. (Notice that attorney-client privileges are limited.)
- The board shall report any action taken in closed session and the vote of each member.

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Willful interruption (§54957.9)

- If any meeting is willfully interrupted so as to render the orderly conduct of the meeting unfeasible and order cannot be restored by removal of the problem individuals, the board may order the room cleared and continue the meeting.
- The board shall allow the press and individuals not causing the disturbance to reenter the meeting room.

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Standing committees (§54952 (b))

- Regardless of composition, as long as it has a continuing subject matter jurisdiction, or a fixed meeting schedule by formal action, a standing committee falls under the Brown Act.

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Public may broadcast (§54953.6)

- Any person shall have the right to broadcast the proceedings (audio and/or video.)
- The broadcast cannot disrupt the meeting with noise, illumination, or obstruction.
- If the body records, the recording must be available for 30 days.

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Courts (§54960.5)

- A court may award court costs and reasonable attorney fees to the plaintiff (the public) if it finds that the board has violated the Brown Act.
- Similarly for the defendant (the board) where the court finds the action brought to the court was clearly frivolous and totally lacking in merit.

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Cure & Correct (§54960.1)

- Prior to any action being commenced, the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation
- The demand must be in writing with in 90 days

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Cure & Correct, continued

- Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

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Cease & Desist (§54960.2)

- The district attorney or interested person alleging a violation of this chapter first submits a cease and desist letter by postal mail or facsimile transmission to the clerk or secretary of the legislative body
- Must be submitted to the body within nine months of the alleged violation.

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Cease & Desist, continued

- Unconditional commitment to cease and desist, and not repeat the past action that is alleged to be violated.
- Unconditional commitment letter must substantially follow the letter in the Brown Act §54960.2(c)(1).

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Questions?

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