



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Bagley-Keene Open Meeting Act

Training for State Boards and Commissions

Purpose of Open Meeting Act

- Promotes an open consensus-building model of decision-making
- Ensures the public a seat at the table



State Bodies: Statutory or Executive Bodies

- A body created by statute or executive order



State Bodies: Advisory Bodies

- Advisory body created by state body
 - Subcommittees, task forces, advisory committees, etc.
 - Three or more members
 - Advisory not decision-making
 - Created by official action of state body or state body member, includes impromptu state bodies



State Bodies: Delegated Bodies

- Delegated body created by state body
 - A body that exercises delegated authority
 - Two or more members



State Bodies: Bodies with Official Representative

- Public or private body funded by state body with a member serving in one's official capacity



New Members

- Persons appointed to board or commission are treated as “members” upon appointment even before being sworn in



What is a meeting?

- Gathering of a majority of members of a state body
- Includes all phases of decision-making from information gathering to final vote



Prohibition: Serial Communications

Members of a state body must avoid serial communications outside of a public meeting among a quorum of members or through an intermediary

Prohibition applies to ALL forms of communication



Exception: Staff Briefing

Staff may brief or respond to questions from individual board members

Staff may not share communications from a board member with any other board member



What is not a meeting?

- Communication with one other person (but not a serial meeting)
- Exceptions for some events at which a quorum is present (e.g., public conferences, public meetings, social events, standing committee meetings)



Meeting Notice Rules

1	Agenda must be posted on website 10 calendar days before meeting
2	Must provide notice in writing to anyone who requests it
3	Brief description of particular matters to be discussed
4	Must give the average person enough information to decide whether to attend or participate in the meeting
5	Notice must be provided in alternative formats upon request by any person with a disability
6	May not add items to agenda during 10-day notice period
7	Exceptions: Emergency (majority vote) or need to take immediate action (2/3 vote)



Traditional Teleconference Provision

Subject to special notice requirements

All teleconference locations must be accessible to public and ADA-compliant

No sunset

Requirements suspended during pandemic



New Teleconference Provision

A quorum of members must participate from a single physical location that is public and ADA compliant.

Remaining members may participate from remote, private locations.

Members must be visible on video at all times and disclose other persons in room.

Sunsets January 1, 2026.



Rights of the Public

- Right to Participate at Public Meetings
 - No identification required
 - Limits on public comment should be fair, impartial, and in furtherance of public participation



Rights of the Public

- Right to Monitor Votes of Each Member
 - Vote or abstention of each member on each item must be publicly reported
 - Best practice is to vote by roll call and report votes in meeting minutes



Rights of the Public

- Right to Access Public Meeting Records
 - Best practice is to post agency's public meeting records on website before meeting



Closed Sessions

General rule: all meetings open to the public

Closed sessions must be expressly authorized

Balance competing public policy interests

Must be narrowly-construed



Exception: Personnel

- Does not mean all decisions affecting personnel
- Only applies to appointment, employment, performance evaluation, discipline or dismissal
- Or a hearing on a complaint or charge
- 24-hour notice to employee



Exception: Pending Litigation

- State body is a party, wants to initiate, or has significant exposure
- Courts look to Brown Act section 54956.9 for facts establishing significant exposure
- Examples include a demand letter or statement of threatened litigation at public meeting



Closed Sessions: Procedures

1	Specific notice requirements on agenda
2	Specific pre-convening and post-convening requirements
3	Brief description of particular matters to be discussed
4	Board members may not stray into other topics, even if related
5	Board members must keep closed session discussion confidential
6	Non-voting Board members may not participate



Penalties and Enforcement

Violations may result in
criminal and civil penalties
and attorney fee awards

Governmental decision may
be invalidated



More Information

- Additional resources are available on the Department's website at oag.ca.gov/open-meetings





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