



A Tradition of Stewardship
A Commitment to Service

THE BROWN ACT

Government Code sections 54950-54963



Ralph M. Brown, Modesto Assemblyman
from 1943-1961

Author of California's first "sunshine act"

*Prepared for FSAC by
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PURPOSE OF THE BROWN ACT

Local agency decision-making bodies,
including advisory committees, must
conduct their business in
open and public meetings
to assure that the local decision-making
process is
observable by the public.

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The Brown Act Applies to FSAC



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FSAC

Resolution 2017-134 and FSAC Bylaws:

PURPOSE: to advise Napa County Fire Chief and Board on issues pertaining to Napa County Fire Dept.

FUNCTIONS: guidance re: operational policies/ procedures (*training, budget, equipment replacement, fleet management, long term dept. goals*)

QUORUM = 6 of 10 members (or their alternates) must be present in order to conduct FSAC meeting

ACTION ITEM: Approval of 4 voting members



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WHO MUST COMPLY?

- ✓ Governing body of a local agency
- ✓ ADVISORY COMMITTEES (with exceptions)
- ✓ Standing committees of legislative body with either:
 - (a) continuing subject matter jurisdiction or
 - (b) a fixed schedule set by formal action

NOT: an ad hoc subcommittee with less than 6 FSAC members (or less than 4 voting members) and with a temporary duration. HOWEVER: The meetings are subject to the notice, agenda, and public participation requirements if the committee has the responsibility of providing advice concerning budgets, audits, contracts, and personnel matters to and upon request of the Committee.



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AGENDAS

Must:

- post in a location freely accessible to members of the public.
 - state time and place of meeting and a brief general description of each item of business to be transacted or discussed.
 - state ADA accessibility
 - the address where non-confidential materials may be obtained.
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ITEMS *NOT* ON THE AGENDA

No action can be taken ... except

- ✓ Majority decides there is an emergency situation pursuant to Government Code section 54956.5.
 - ✓ 2/3 of the members present (*or all members if less than 7 are present*) vote that immediate action is needed and the need came to board's attention after agenda was posted. (*Regular meetings only.*)
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RIGHTS OF THE PUBLIC

- ✓ The public may address matters on the agenda
Before or during consideration of the item, public must be given an opportunity to comment on the item.
 - ✓ When a member of the public raises an issue that is not on the agenda, the item may be briefly responded to **BUT NO ACTION CAN BE TAKEN.**
 - ✓ Documents distributed at a meeting are public records, unless otherwise exempted under the Public Records Act.
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BROWN ACT MEETINGS

MEETING = Congregation of majority (*6 members or 4 voting members*):

- ✓ Same time and place,
- ✓ To hear, discuss, or deliberate,
- ✓ Agency business.

Meetings are gatherings where action is taken or where deliberations occur.

DELIBERATIONS = collective decision-making, collective acquisition of facts, OR exchange of facts before ultimate decision



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WHEN THE BROWN ACT DOES NOT APPLY

Meetings of other legislative bodies (e.g., *FSA C members attending BOS meeting*)

Conferences open to the public (e.g. *annual association conferences*)

Social/ ceremonial events (e.g. *football games, wedding, retirement party, etc.*)

BUT . . . DON'T DISCUSS FSA C BUSINESS!



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REQUIREMENTS FOR MEETINGS

Location

- ✓ Within FSA C jurisdiction

Agenda

- ✓ Except emergency meetings, all meetings must have an agenda posted in advance (Regular – 72 hours, Special – 24 hours).

Open and public

- ✓ All persons must be permitted to attend, no secret ballots, no secret meetings.

No conditions on attendance

- ✓ Cannot require sign-in or charge for attendance.
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NO Serial Meetings

- You cannot conduct a series of communications of any kind,
- * directly or through personal intermediaries
or technological devices (*text, e-mail*)
 - * that ultimately involves a majority
(*6 members or 4 voting members*)
 - * to discuss, deliberate, or take action on FSA C business
 - * without a noticed, agendized meeting

SERIAL MEETINGS ARE PROHIBITED



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Chain Meetings

One member talks to another member who then talks to another member. Frequently happens with forwarded emails or shared social media posts.

Member A talks to Member B,
Member B talks to Member C
Member C talks to Member D
about the same topic .





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Hub and Spoke Meetings

One person acts as the center and communicates with the other members.

Member A talks to Member B...

Member A talks to Member C

Member A talks to Member D

about the same topic





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CYBERSPACE MEETINGS

Blog or social media comments, sharing photos, articles, or comments might turn into a discussion among the Committee members and be considered a meeting in violation of the Brown Act.

**DO NOT DISCUSS FSA C BUSINESS
ON SOCIAL MEDIA**



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ELECTRONIC MESSAGES

A series of text messages (or emails) sent to committee members during a meeting are not allowed because members of the public are not privy to the content of the message.

A group text or email containing a *6 members or 4 voting members* that relates to deliberations = a **Brown Act violation.**

Text messages and e-mails might be considered a public record.



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WHAT IS ALLOWED?

Individual contacts between a member and any other person is permitted.

Members have the right to confer with constituents, advocates, consultants, and colleagues.

HOWEVER, individual contacts about FSA C business CANNOT be done in stages for what would be prohibited in one step.



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Penalties & Remedies

Penalties and Remedies provided by the Legislature to combat violations of the Act include:

- Criminal penalties.
 - Civil injunctive relief.
 - Award of attorney's fees.
 - Actions taken (preliminary or final) in violation of Brown Act may be declared null and void by a court.
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Penalties & Remedies



It is a misdemeanor to attend a meeting where action is taken that violates the Brown Act and the member intends to deprive the public of information to which the Board member knows or has reason to know the public is entitled.

Misdemeanor is punishable by imprisonment in county jail and/ or fine not to exceed \$1,000.



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PUBLIC MEETINGS ARE OPEN MEETINGS

“ 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.”

- former Assemblyman William T. Bagley

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