

Open & Public VI: A Guide to the Ralph M. Brown Act (2024)

Presented by:

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OPEN & PUBLIC VI - UPDATES

- Overview of updated chapters in Open & Public VI
- AB 2449 teleconference rules, Attorney General opinion on State of the City address, and pending Brown Act legislation
- Acknowledgement and thanks to contributors from the Brown Act Committee



OVERVIEW OF UPDATED CHAPTERS

- Chapter 2, “Legislative Bodies”
 - Clarification that legal counsel does not qualify as a member of the “Legislative Body” for Brown Act violation purposes
- Chapter 3, “Meetings”
 - Clarifications re: committees, candidate debates, Council briefings, trainings, electronic communication
 - Updates re: social media usage, teleconferencing

OVERVIEW OF UPDATED CHAPTERS

- Chapter 4, “Agenda, Notices, and Public Participation”
 - Clarifications re: agenda distribution and access, special meeting agendas, time limits for speakers
 - Update re: disruptive conduct
- Chapter 5, “Closed Sessions”
 - Clarification re: overlapping subject matter
 - Update re: threatened litigation, closed session attendance
- Chapter 6, “Remedies”
 - Clarification re: challenge process

RECENT BROWN ACT DEVELOPMENTS

- AB 2449 Teleconference Rules
- Attorney General Opinion re: State of the City Address
- Pending legislation



KEY DIFFERENCES BETWEEN TRADITIONAL (1990'S) TELECONFERENCE RULES AND AB 2449

Traditional Brown Act Teleconference Rules	AB 2449 (Expires January 1, 2026)
No limit to usage	<ul style="list-style-type: none"> • Cannot participate remotely for more than three consecutive months or 20% of regular meetings in calendar year • No more than two meetings in calendar year if “just cause” or if body meets fewer than 10 times per calendar year
Quorum – needed within the jurisdiction	Quorum – needed at <u>single, physical location</u> within jurisdiction
Video not required	Member required to participate using <u>audio and video</u>
Teleconference location accessible to the public	Remote location need not be publicly accessible – but member must disclose anyone over 18 in the room

ATTORNEY GENERAL OPINION ON BROWN ACT APPLICABILITY TO STATE OF THE CITY ADDRESS (23-102, April 18, 2024)

- Chamber of Commerce hosted Mayor's State of the City address at local hotel -- \$60 for Chamber members, \$80 for others
- No other way for the public to watch the Mayor's address
- District Attorney advised that less than a quorum could attend, so there would be no "meeting" under the Brown Act
- Mayor gave State of the City address as scheduled, and less than a quorum attended

ATTORNEY GENERAL OPINION (CONT.)

- If majority of City Council were to attend the event, it would be a “meeting”
 - Congregation of majority of members of City Council
 - Collective intent to “hear, discuss, deliberate, or take action”
 - Address involved an item within the subject matter jurisdiction of body



ATTORNEY GENERAL OPINION (CONT.)

- **Event would not satisfy exception for “conference or similar gathering”**
 - Common definitions of “conference” – multiple presentations/parties
 - Address – single speech by single official re: conditions in a single city
 - Even if event was conference or similar gathering, it was not a “discussion of issues of general interest to the public” as a whole



ATTORNEY GENERAL OPINION (CONT.)

- **Event would not satisfy exception for “community meeting”**
 - Community meeting not sufficiently “open” because attendees were required to purchase a ticket
- **Event would not satisfy exception for “purely or ceremonial occasion”**
 - Opinion stated exception only applies “if an occasion is completely, exclusively, and genuinely social or ceremonial. As such, an occasion that is partially or even predominately social or ceremonial would not qualify.”



PENDING LEGISLATION

- **AB 2715 (Boerner)**
 - Would allow legislative body to hold a closed session meeting on matters pertaining to a threat relating to cybersecurity
- **AB 817 (Pacheco)**
 - Would, until January 1, 2026, allow advisory bodies the ability to participate in teleconference meetings, without (a) members posting their physical location; and (b) the need for a pending state of emergency
- **AB 2302 (Addis)**
 - Would clarify that multiple sessions on same day would be treated as one “meeting” for AB 2449

THANKS TO CONTRIBUTORS!

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