



**Cal OES**  
GOVERNOR'S OFFICE  
OF EMERGENCY SERVICES

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# **Bagley-Keene Open Meeting Act**

**State 9-1-1 Advisory Board**

November 20, 2014

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# Bagley-Keene Open Meeting Act

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# Bagley-Keene Overview

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- What is a meeting?
  - Communication
  - Committees
  - Notice
  - Access and location
  - Teleconference
  - Public comment
  - Voting
  - Closed Meetings
  - Violations
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# What is a Meeting?

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- ❑ Congregation of a majority of the members of the council
  - ❑ Hear, discuss, debate, or deliberate
  - ❑ Topic within subject matter jurisdiction of the council
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# Type of Communication

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- Clarification of an issue within Council's jurisdiction
  - Facilitation of an agreement or compromise
  - Conversation that advances the resolution of an issue
  - Any aspect of deliberative process
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# Series of Communications

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- ❑ Telephone conversations or e-mails
  - ❑ Individual contacts, directly or through intermediaries, by which means a majority of the members discuss, deliberate or take action on any item of business within the subject matter jurisdiction of the council
  - ❑ Beware the “reply all” button
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# Social Gatherings

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- ❑ Conferences, retreats, or gatherings attended by a majority of the members
  - ❑ Avoid discussion of topics within the council's jurisdiction
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# Committees and Task Forces

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- Three or more persons
  - Created by action of the council or any member of the council
  - Subject to the Act
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# All meetings are public

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- Meetings must be noticed 10 calendar days in advance
- Agenda must be distributed 10 calendar days in advance
  - Include description of specific items to be discussed for both open and closed\*

\* If closed, cite statutory authority under which session is held

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# Distribution of Information

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- ❑ Written materials provided to majority of the Council must be made available to the public, unless exempt from disclosure under the Public Records Act
  - ❑ No communication on material distributed prior to the meeting
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# Location and Access

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- ❑ Public location – keep in mind when considering tele/video conferencing
  - ❑ All meetings, notices, and materials must be accessible under the ADA
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# Teleconferencing

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- Permitted
  - Each site accessible to the public
    - May have additional observation locations
  - All proceedings audible
  - Voting by roll call
  - All other provisions apply
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# Public comment

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- Must be allowed on agenda items before a vote
  - Exception - the subject matter is appropriate for closed session
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# Closed session?

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- Discuss and vote on disciplinary matters under the Administrative Procedures Act
  - Prepare, approve, or grade examinations
  - Pending litigation
  - Appointment, employment, or dismissal of executive officer
  - Other limited circumstances upon advice of counsel (may require subsequent written notice to Legislative Analyst)
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# Violations!

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- Attorney General, district attorney, or any interested person may bring action



- Court may award attorney's fees and costs

- Misdemeanor



# Lessons Learned ...

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- LA Times v. LA Memorial Coliseum Commission (2013)
  - Lease negotiations (more than price and terms)
  - Judge: "Mack truck through narrow exemption"

## Consequences:

- Attorney's fees and costs
  - Injunction to restrict closed meeting topics
  - Record closed meetings for three years
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# Disclaimer

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- ❑ This presentation did not offer legal advice
  - ❑ Always consult your legal counsel regarding liability and risks that may attach to your official actions
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# Contact Information

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Alex J. Pal

*Staff Counsel (Cal OES)*

Office: (916) 845-8973

[Alex.Pal@caloes.ca.gov](mailto:Alex.Pal@caloes.ca.gov)

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