



Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

Bagley-Keene Open Meeting Act

9-8-8 Technical Advisory

Board Meeting

December 8, 2022

What is the Bagley-Keene Open Meeting Act?

The law that governs public meetings conducted by state agencies

Bagley-Keene Overview

- What is a meeting?
 - Types of Communication
 - Committees and Task Forces
 - Notice for Meetings
 - Distribution of information
 - Location and Access
 - Teleconferencing
 - Public comment
 - Voting
 - Closed Session
 - Violations
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What is a Meeting?

- Congregation of a majority of the members of the Board
 - Hear, discuss, debate, or deliberate
 - Topic within subject matter jurisdiction of the Board
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Types of Communication

- Clarification of an issue within Board'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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Serial Meetings

- ❑ Private meetings (known as serial meetings) by which a majority of the members of a legislative body commit to a decision, discuss, or engage in collective deliberation concerning public business
 - ❑ Strictly prohibited
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Serial Communications

- Telephone conversations or e-mails
 - Directly or through intermediaries
 - On any item of business within the subject matter jurisdiction of the Board
 - Beware the “reply all” button
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Social Gatherings

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

- Three or more persons
 - Created by formal action of the Board or any member of the Board
 - Subject to the Act
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Notice for Meetings

- 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 session, must list the statutory authority under which the session is held should also be cited.*

Distribution of Information

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

- ❑ 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

- 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

- Must be allowed on agenda items before a vote
 - Exception - the subject matter is appropriate for closed session (report out)
 - May permit public testimony on any items not on the agenda. The Board may not deliberate on the matter but may place it on a future agenda or direct the person to staff.
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Voting

- Must be done in public (no secret ballot, no voting by proxy)
 - By a majority vote of the state body
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Closed session

- Agenda items allowed for closed session in very limited circumstances
 - For example:
 - *Discuss and vote on specific employee personnel matters.*
 - *Pending/potential litigation*
 - *Appointment, employment, or dismissal of executive officer*
 - *Response to Confidential Audit Report*
 - *Security threat of Criminal or Terrorist Activities (2/3 vote)*
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Violations

- Attorney General, district attorney, or any interested person may bring action
- Decision of body may be overturned
- Misdemeanor penalties
- Court may award attorney's fees and costs



Disclaimer

- ❑ 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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