



Bagley-Keene

A Brief Primer for the SB350
Disadvantaged Communities Advisory Group
April 4, 2018





Topics covered

- **Bagley-Keene Open Meeting Act**
 - The purpose of Bagley-Keene is to ensure that public agencies conduct the people's business openly so that the public may observe and be informed.





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Public Policy to Conduct People's Business Openly

Applies to any “state body”

- BagleyKeene generally defines State bodies (groups) as all mandated State boards, commissions, and similar multimember groups as well as committees of these groups that have been delegated authority to make decisions and advisory committees of more than two members.

What is a meeting?

- A majority of members are virtually or physically present
- A majority of members are indirectly communicating electronically or through intermediaries
- A majority of members discuss topics relevant to the group's jurisdiction

Not meetings: certain gatherings (e.g., conferences, open and noticed meetings of other state or legislative body or local agencies, social)





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Meetings: A meeting occurs whenever a majority or quorum of group members are physically or virtually present to discuss a topic related to its jurisdiction.

CAUTION!!!

- A meeting can take place when a majority of members ***discuss, deliberate, or take action*** using direct (e.g., speaking in person) or indirect (e.g., email, speaking through intermediaries) communication
- **Serial meetings are prohibited.** A serial meeting occurs when a majority of the members use a series of communications of any kind outside of a noticed meeting on any item of business within the jurisdiction of the body.
- Majority attendance at social events requires that members avoid discussing topics related to their group's area of authority.





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Open Meeting Requirements

- Must provide meeting notices and agendas to the public before it meets
- Notice must be published on the Internet at **least ten days** prior to the meeting with contact and location information
- Agendas must describe items to be discussed, and, once made available, *cannot be changed without formal action and mandated notice*
- Written materials must be made available to the public for inspection at the meeting
- Committee/subcommittee meetings of six or more members must also follow notice requirements

A state body cannot act on a matter raised by a member of the public unless it is on the agenda for that meeting; it can schedule issues raised by the public for consideration in future meetings.





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Exceptions from the 10-day notice requirement

- Special Meetings
 - When immediate action must be taken (e.g., to discuss proposed legislation)
 - At the commencement of the special meeting, the state body must make a finding that 10-day notice would impose a substantial hardship on the body or that immediate action is required to protect the public interest and must provide a factual basis for the finding.
 - Notice be provided at least 48 hours before the meeting to the members of the body and all national wire services, along with posting on the Internet
- Emergency Meetings
 - Rare instances when there exists a crippling disaster or a work stoppage that would severely impair public health and safety
 - Requires majority vote that an emergency situation exists
 - Must provide notice to media requestors at least one hour prior to the meeting
 - Records and information on any action at the meeting must be posted ASAP after the meeting





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Public Participation

- The Act allows the general public to monitor and participate in meetings of state bodies.
- The site must be accessible to the disabled.
- The state body is prohibited from imposing any conditions on attendance at a meeting.
 - e.g., must be clear that sign-in sheets are voluntary and not a prerequisite for either attending or speaking at the meeting
- The public is entitled to record and broadcast (audio and/or video) the meetings, unless it causes persistent disruption.
- Must provide reasonable time for members of the public to speak about each agenda item before or during discussion.





Resources

Bagley-Keene Open Meeting Act

- CA Office of the Attorney General <https://oag.ca.gov/open-meetings>

CPUC Legal Division

- Jason Reiger (jason.reiger@cpuc.ca.gov)
- Helen Mickiewicz (helen.mickiewicz@cpuc.ca.gov)

When in doubt, just ask!

