

## Free 2011 labor law posters and a review of key Brown Act components

### Happy New Year!

On behalf of the Board of Directors and staff of SDRMA we would like to wish everyone a healthy and safe 2011.

### 2011 Labor Law Posters

SDRMA is pleased to announce that 2011 Labor Law posters were mailed out in January to all SDRMA members. All employers in California including public entities are required to post State and Federal Government issued Labor Law Postings. Labor Law Postings provide employees with specific information on topics such as the State Minimum Wage, Discrimination in the Workplace, the Federal Minimum Wage and Family Medical Leave Act. These postings must be displayed in areas where employees congregate such as a breakroom.

### The Brown Act

Every public agency is required to comply with the Brown Act in providing the public open access while conducting a public meeting. The following information is not meant to be an exhaustive review of Brown Act requirements, but a discussion of some of the key components of the Brown Act.

California Government Code §54950 states: “In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

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.”

### Who’s Covered?

Local agencies, including counties, cities, schools and special districts. (§ 54951)

“Legislative bodies” of each agency - the agency’s governing body plus “covered boards,” that is, any board, commission, committee, task force or other advisory body created by the agency, whether permanent or temporary. (§ 54952(b)) Standing committees of a legislative body, irrespective of their composition, which have either: (1) a continuing subject matter jurisdiction or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body. Even if comprised of less than a quorum of the governing body, a standing committee is subject to the Brown Act.

Brown Act gatherings include a legislative body’s regular meetings, special meetings, emergency meetings and adjourned meetings;

- “Regular meetings” are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.
- “Special meetings” are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the



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Brown Act's notice requirements for special meetings and are subject to 24 hour posting requirements.

- "Emergency meetings" are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and is subject to 1 hour notice to the press.
- "Adjourned meetings" are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.

#### Six exceptions to the meeting definition:

- Individual Contacts
- Conferences
- Community Meetings
- Other Legislative Bodies
- Standing Committees
- Social or Ceremonial Events

#### The Public's right to attend a meeting

A number of other Brown Act provisions protect the public's right to attend, observe, and participate in meetings.

- Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise "fulfill any condition precedent" to attending a meeting.
- Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.
- No meeting can be held in a facility that prohibits attendance based on race, religion, color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the

public must make a payment or purchase in order to be present. This does not mean however that the public is entitled to free entry to a conference attended by a majority of the legislative body.

- While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.
- Action by secret ballot, whether preliminary or final, is flatly prohibited.
- There can be no semi-closed meetings, in which some members of the public are permitted to attend as spectators while others are not; meetings are either open or closed.
- The legislative body may remove persons from a meeting who willfully interrupt proceedings. If order still cannot be restored, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to re-admit an individual or individuals not responsible for the disturbance.

*continued on page 38*

## Safety/Claims Education Day

**March 31, 2011**  
**Sacramento, California**

We are hosting our Spring Safety/Claims Education Day on March 31 in Sacramento to provide free training and information regarding coverages, upcoming and recent changes in the law and our many MemberPlus Services. This is a great time to learn more about employment practice exposures, proactive claims management, Board member liability, Worker's Compensation updates and much more!

In addition, SDRMA members who attend the Education Day are eligible to earn credit incentive points (CIPs) to reduce their annual contribution amounts for Property/Liability and Workers' Compensation programs.

Registration information will be mailed soon!



## Managing risk [continued from page 31]

### Closed Sessions

Closed Sessions made be held for:

- Pending Litigation -- Only if open discussion “would prejudice the position of the agency in the litigation.” The litigation must be named on the posted agenda or announced in open session unless doing so would jeopardize the board’s ability to service process on an unserved party or conclude existing settlement negotiations to its advantage.
- Existing litigation
- Threatened litigation against the Public Entity
- Initiation of litigation by the Public Entity
- Real Estate negotiations
- Public Employment

The Brown Act authorizes a closed session “to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee.” The purpose of this exception—commonly referred to as the “personnel exception”—is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the legislative body; thus, it is restricted to discussing individuals, not general personnel policies.

The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception. That authority may be delegated to a subsidiary appointed body. An employee must be given at least 24 hours notice of any closed session convened to hear specific complaints or charges against him or her. This occurs when the legislative body is reviewing evidence, which could include live testimony, and adjudicating conflicting testimony offered as evidence. The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session. If the employee is not given notice, any disciplinary action is null and void.

For additional information regarding the Brown Act please see:

- Special District Risk Management Authority
- League of California Cities
- California Attorney General’s office
- California Special Districts Association
- California Government Code Section 54950

You may also contact Dennis Timoney directly at 800.537.7790 or [dtimoney@sdrma.org](mailto:dtimoney@sdrma.org). ^

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