



IDEAA in

CURRICULUM INSTITUTE

Curriculum: Eyes on the Prize

JULY 7-9, 2022

ACADEMIC SENATE FOR
CALIFORNIA COMMUNITY COLLEGES

Brown Act and Parliamentary Procedure
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Breakout Description

As legislatively created bodies, local academic senates are required to comply with open meeting requirements of the Ralph M. Brown Act. This requirement extends to other local governance bodies, including curriculum committees. What does this mean for local academic senate and curriculum leaders? What about open meeting laws in the age of virtual meetings? How do open meeting laws interact with parliamentary procedures? This session will help local academic senate and curriculum leaders understand the basics of the Brown Act and parliamentary procedures, providing effective practices for ensuring that our responsibility to conduct the public's business in the public view meets both the letter and the spirit of the law.





Breakout Overview

- Why are Curriculum Committees Under the Brown Act?
- What does the Brown Act Require?
- What was the impact of COVID 19 on the Brown Act?
- What is the role of Parliamentary Procedure in running an effective and equitable meeting?
- What is the role of the chair in meetings?
- What types of professional development can be shared about the Brown Act and Parliamentary Procedures?





Why the Brown Act?

- “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.”
- Courts and the CA Attorney General have sided in favor of greater public access and narrowly view exceptions





Intent of the Brown Act

- “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.”
- Government Code Section 54950





Legislative Bodies

- “All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.”
- Government Code Section 54953(a)





Why are Local Senates and Curriculum Committees subject to the Brown Act?

- Academic Senates are established through action of the local Board of Trustees in accordance with title 5 §53200.
- “The legally mandated joint action to be taken by the faculty of a community college and a district board in establishing an academic senate constitutes the requisite “formal action” contemplated by [the Brown Act].”
 - Attorney General Opinion No. 83-304 (1983)
- That local senates, as advisory bodies created by the local board, are subject to the Brown Act has been upheld in case law multiple times.





What committees are under the Brown Act?

- Standing Committees of a legislative body are always subject to the Brown Act.
- Standing committees, irrespective of composition, which have either: (1) a continuing subject matter jurisdiction, or (2) a meeting schedule fixed by resolution or formal action of the legislative body.
- *Examples:* long-term committees on professional development or **curriculum**.
- Title 5 §55002 explicitly authorizes **Curriculum Committees** to make recommendations directly to local boards.





Brown Act Requirements: Effective Notice for Regular Meetings

Government Code §54954.2

Key Points

- Regular Meeting Agendas must be posted 72 hours
- Must state meeting location and time
- Must be “freely accessible to the public”
- Cannot be posted *solely* on internet website
- Agenda must contain short description of every item for action or discussion





Effective Notice for Special Meetings

Government Code §54956

Key Points

- Special Meeting Agendas must be posted 24 hours prior to meeting
- Must state meeting location and time
- Must be “freely accessible to the public”
- Must be posted “on the local agency’s Internet Web site, if the local agency has one.”





Emergency Meetings

Government Code §54956.5

Key Points

- Limited in nature, and will more than likely not apply to most Curriculum Committees and Local Academic Senates.
- “An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.”



Agendas: Regular Meetings

Only agendized items may be discussed during Regular Meetings, except for the following:

Government Code §54954.2(b)

Key Points

- “...a majority vote of the legislative body [determines] an emergency situation exists, as defined in Section 54956.5.”
- An agenda item requiring immediate action came to the attention of the “local agency” after the agenda was posted, if:
 - $\frac{2}{3}$ of the committee has voted to the addition of the item, or
 - Unanimous approval if quorum is less than $\frac{2}{3}$ of committee membership

Important to note that this is a key place where the Brown Act and parliamentary procedure diverge.





Agendas: Special Meetings

Only agendized items may be discussed during Special Meetings.

Government Code §54956

Key Point

- “The call and notice shall specify...the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body.”





Public Comments

The public must be provided an opportunity to address the “legislative body” on any item “that is within the subject matter jurisdiction.”

Government Code §54954.3

Key Points

- Comment can be made “before or during the legislative body’s consideration of the item.”
- Public need not be provided an opportunity to address an agenda item if the public was allowed the opportunity at another public meeting composed exclusively of members of the legislative body, and the item was not substantially changed.
- Special meetings must allow the public the opportunity to address the legislative body “concerning any item that has been described in the notice...before or during consideration of that item.”





Closed Sessions

Closed Session may not necessarily apply to Local Academic Senates or Curriculum Committees, unless the following items are under consideration:

Government Code §54954.5

Key Points

- Litigation - Existing, Initiating, or Anticipated
- Real Estate Negotiations
- Personnel - Public employee appointment, employment, evaluation, discipline/dismissal/release
- Labor Negotiations
- License Applicants with Criminal Records
- Liability Claims
- Threat to Public Services or Facilities
- Health Trade Secrets
- Multijurisdictional Drug Law Enforcement Agency Case Review/Planning





Public Deliberations

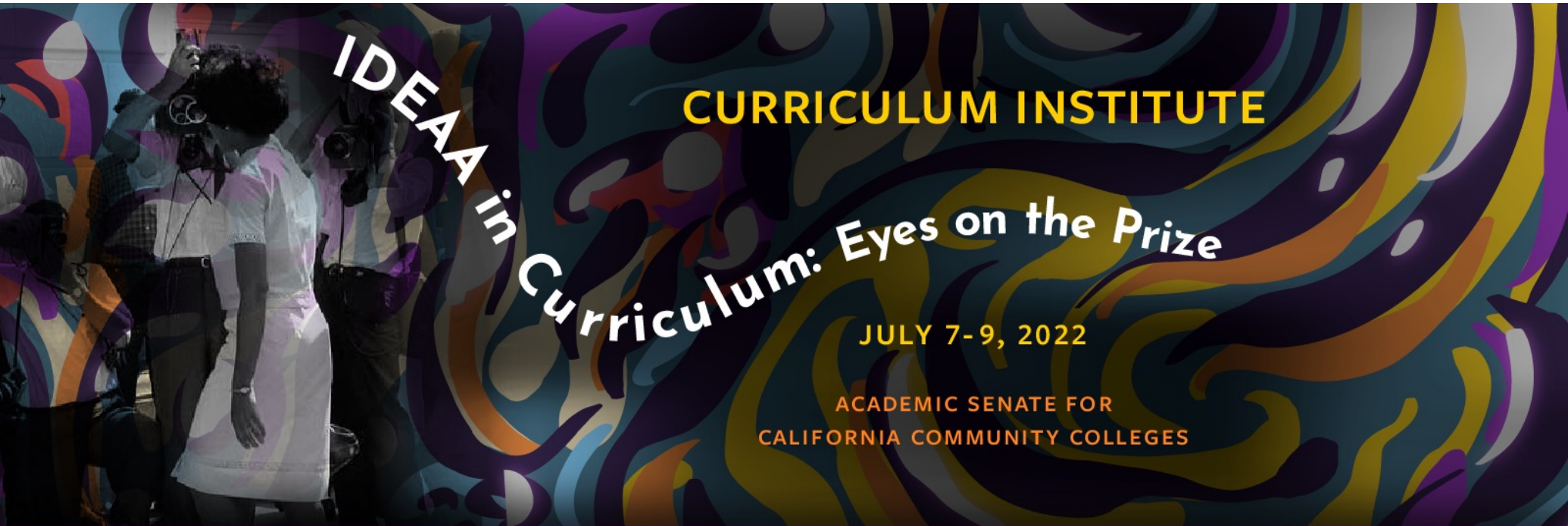
A majority of members of the legislative body may not “discuss, deliberate, or take action”, outside of an agendized meeting, “any item of business that is within the subject matter jurisdiction of the legislative body.”

[Government Code §54954.2](#)

Key Points

- Members may congregate outside of committee, “provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.”
- The Brown Act does not prevent a member to confer with their constituents through individual contact.
- A series of contacts that lead to a discussion with a majority of the membership may constitute a violation of the Brown Act.
- Any communication/contact that reveals or may reveal the positions of other members of the legislative body may constitute a violation of the Brown Act.





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Emergency Conditions and Legislation



COVID-19 and the Brown Act: Pre-COVID

- Ever wonder why legislative bodies largely meet in person?
- Teleconferencing requires ([§54953b](#)):
 - All votes by roll call
 - Agendas posted at all teleconference locations
 - Each teleconference location is identified in the agenda and notice of meeting
 - Each teleconference location is accessible to the public
 - Members of public may address the legislative body at each teleconference location



COVID-19 and the Brown Act

- Governor's Executive Order [N-25-20](#) (March 12, 2020)
 - Suspension of teleconference requirements
- Governor's Executive Order [N-29-20](#) (March 17, 2020)
 - Clarified accessibility and notice requirements
- Governor's Executive Order [N-08-21](#)
 - Teleconference requirements suspensions applied through September 30, 2021
- Enabled legislative bodies to conduct business online
 - Agenda and notice of meetings 72 hours in advance
 - Must also include info how public may observe and offer public comment
 - All votes by roll call; other teleconference requirements suspended





Brown Act: Teleconference Updates

- [AB361](#): Passed in October 2021
- Continued to suspend the portions of the Brown Act that would require posting all teleconference locations and making those locations available to the public, but only when:
 - There is a declared state of emergency under the California Emergency Services Act AND
 - Additional conditions are met, including that the legislative body has determined that as a result of the emergency meeting in person presents risks to health and safety.
- Bill contains sunset dates; [EO N-1-22](#) extended these to March 31, 2022 for state agencies.
- “Legislative bodies of a local agency” are authorized through January 1, 2024

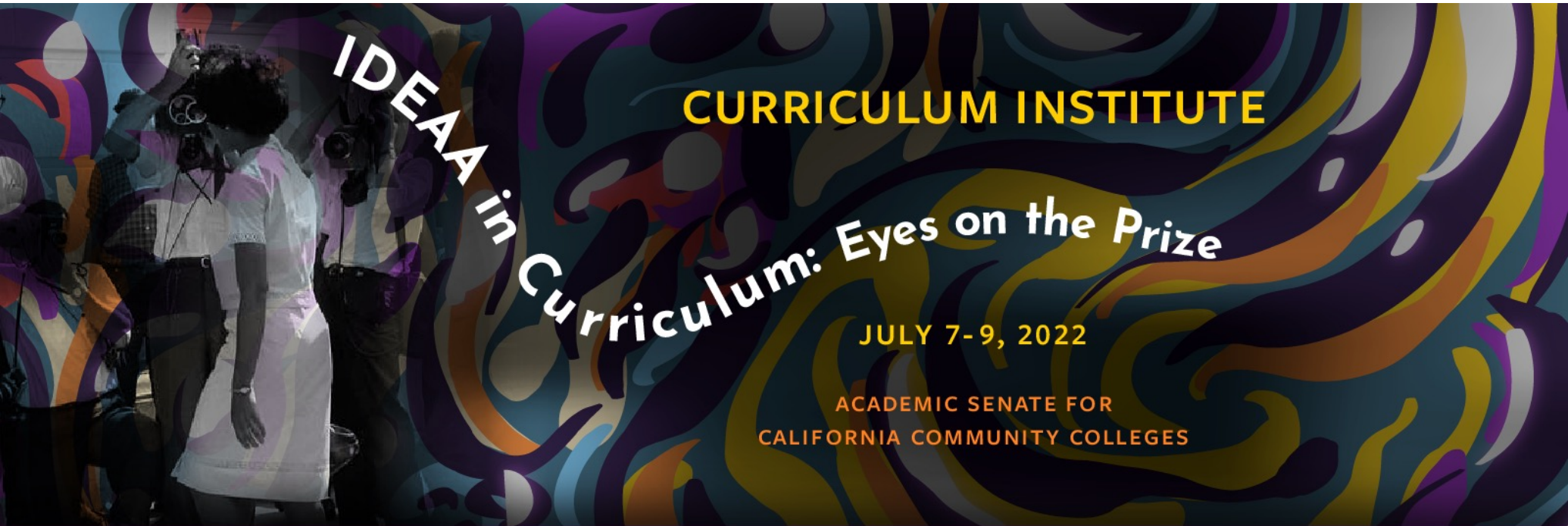




Brown Act: In-Progress Legislation

- [AB 2449](#): Proposed legislation to allow additional limited remote participation in meetings for “legislative bodies of local agencies.”
- Members requesting remote participation must show “just cause” or “emergency circumstances.”
- Number of meetings for remote participation is limited
- This legislation is currently in committee
- Bottom Line: Be planning for transition back to in-person meetings





Parliamentary Procedure



Role of Parliamentary Procedure

- Parliamentary procedure allows for effective meeting management.
- It allows a committee to arrive at the will of the majority with the greatest number of questions in the shortest amount of time.
- This is accomplished regardless of whether the committee is in total harmony or if there is impassioned division of opinion.



Purpose / Principles of Parliamentary Procedure

- Maintenance of order
- All voices are heard
- Look to see whose voices are missing in the discussion or debate
- Ability for each member to provide input on a topic
- All members have equal rights, privileges and obligations
- Full and free discussion with a diversity of ideas
- Quorum must be present for business to be conducted





Role of the Chair

- Remain impartial during the debate; if the chair wishes to engage in debate, s/he/they must assign a temporary chair, usually the Vice President or next in line
- Votes only to break a tie (*subject to local rules; in some small committees the chair has a vote*)
- Introduces the agenda items and provides factual context to the item
- Recognizes speakers
- Determines if a motion is in order (*relevant to the topic and within the scope of the Senate*)
- Keeps the discussion centered on the current item or motion
- Maintains the order of the process
- Puts motions to vote and announces the results





Role of the Parliamentarian

- A *Robert's Rules of Order Newly Revised*, enable groups to efficiently and fairly discuss and determine actions to be taken.
- *The Parliamentarian does not rule!* Parliamentary law gives to the chair alone the power to rule on questions of order and on the proper application of the rules.
- The role of the parliamentarian during a meeting is purely an advisory and consultative one, helping the presiding officer to respond to points of order and parliamentary inquiries



Processes for Handling Motions

- Member must obtain recognition of the chair and, once recognized, makes a motion,
- Motion must be seconded by a committee member
- Chair restates motion and opens debate
- Maker of the motion has the right to speak first in the debate
- Motion and any secondary motions are debated
- Debate closes when debate has ended (no more in line or time has ended) or the “question has been called” (a type of motion to end debate that requires 2/3 vote)
- Chair restates motion and synthesizes debate (online may be placed in chat so everyone can read the motion)
- Vote and announcement of results

The Brown Act requires all votes be listed (roll call) in the minutes



General Rules of Debate

- No committee member may speak unless recognized by the Chair. Only members are allowed to speak.
- All discussion must be relevant to the immediate motion.
- No member may speak more than twice to each debatable motion. They may speak the second time only when everyone else wishing to speak has had the opportunity.
- No member can speak for more than 10 minutes total (or whatever the local decision is).
- Debate can be extended if the body makes a motion and agrees through majority vote.
- All remarks must be addressed to the Chair.





General Rules of Debate (*cont.*)

- Debate must address issues, not personalities
- When possible, chair should let the floor alternate between those speaking in support of and in opposition to the motion.
- It is not permissible to speak against one's own motion (but you can vote against it)
- Senators may not disrupt the assembly unless to make a complaint about a rules violation or the relevance of the discussion to the motion. (see chart in a few slides)
- If a member/attendee is disruptive or is not allowing the business of the group to continue, they may be removed from the meeting by the chair.
- Rules of debate may only be changed by a 2/3 vote or consensus without objection.



Common Motions

Action	What to Say	Can interrupt speaker?	Need a Second?	Can be Debated?	Can be Amended?	Votes Needed
Introduce main motion	"I move to..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move to amend the motion by...." (add or strike words or both)	No	Yes	Yes	Yes	Majority
Move item to committee	"I move that we refer the matter to committee."	No	Yes	Yes	No	Majority
Postpone item	"I move to postpone the matter until..."	No	Yes	Yes	No	Majority
End debate	"I move the previous question."	No	Yes	Yes	No	Majority



Common Motions (*cont.*)

Object to procedure	"Point of order."	Yes	No	No	No	Chair decision
Recess the meeting	"I move that we recess until..."	No	Yes	No	No	Majority
Adjourn the meeting	"I move to adjourn the meeting."	No	Yes	No	No	Majority
Request information	"Point of information."	Yes	No	No	No	No vote
Overrule the chair's ruling	"I move to overrule the chair's ruling."	Yes	Yes	Yes	No	Majority
Extend the allotted time	"I move to extend the time by ___ minutes."	No	Yes	No	Yes	2/3
Enforce the rules or point out incorrect procedure	"Point of order."	Yes	No	No	No	No vote
Table a Motion	"I move to table..."	No	Yes	No	No	Majority





Points of Order

- If a member thinks there is rule violation they can ask for Point of Order
- If they ask for a Point of Order, the Chair may consult with the Parliamentarian on the point of order questions.
- If no point of order is called and a procedural concern is raised later the action stands since it was not done in a timely manner.





Importance of Synthesizing

- At the end of debate, the Chair should summarize/synthesize the debate and the motion before the vote is taken.
- This grounds the vote and ensures that senators are making an informed vote.
- May ask for consensus.



Alternatives to Robert's Rules of Order

- **Consensus Decision-Making: A Virtual Learning Center**
<http://consensusdecisionmaking.org/>
- **Democratic Rules of Order** *(this has to be purchased)*
<http://democraticrules.com/>
- **Simplified Rules of Order** *<https://www.counseling.org/docs/default-source/Branches/simplified-roberts-rules-oforder.pdf?sfvrsn=0>*
- **Atwood's Rules** *<http://robertsrulesteam1.weebly.com/alternatives.html>*
- **Comparison of Robert's Rules, Consensus Process and Dynamic Facilitation** *<http://www.co-intelligence.org/l-comparisonRR-CC-DF.html>*
- **Martha's Rules of Order** *<http://camblog.topssoft.com/coming-to-consensus-marthas-rules-of-order>*





Professional Development: Few Thoughts

- Senate/Standing Committee retreat and/or training
- Good ideas to orient committee members to Brown Act requirements and parliamentary procedures each year
- Senates can request training on Brown Act from ASCCC
- Work with your local district legal counsel on questions about the Brown Act
- Work on the intent of Brown Act (Open and Transparent)





Professional Development / Resources

- [Open and Public V: A Guide to the Ralph M. Brown Act](#)
- [The Brown Act and Local Academic Senates- ASCCC Faculty Leadership Institute 2020](#)
- [Webinar/Resources- Governor's EOs and the Brown Act for Academic Senates During a State of Emergency](#)
- [The Brown Act and your Curriculum Committee -Rostrum Article](#)
- [CA Attorney General Opinion 33-304 \(1983\)](#)
- [Brown Act- Relevant Sections \(CALCITIES\)](#)
- [Brown Act](#)





Questions?

- Thank you for joining us!
- Questions: Info@ASCCC.org

