

**BAGLEY-KEENE OPEN MEETING ACT  
TOP TEN RULES  
(January 2009)**

[NOTE: GC § = Government Code Section; AG = Opinions of the California Attorney General.]

1. All meetings are public. (GC §11123.)
2. Meetings must be noticed 10 calendar days in advance—including posting on the Internet. (GC §11125(a).)
3. Agenda required—must include a description of specific items to be discussed (GC §§ 11125 & 11125.1).
  - a. No item may be added to the agenda unless it meets criteria for an emergency. (GC §11125(b).)
4. Meeting is “gathering” of a majority of the board or a majority of a committee of 3 or more persons where board business will be discussed. Includes telephone & e-mail communications. (GC § 11122.5; Stockton Newspapers Inc. v. Members of the Redevelopment Agency of the City of Stockton (1985) 171 Cal.App.3d 95.)
5. Law applies to committees, subcommittees, and task forces that consist of 3 or more persons (includes all persons whether or not they are board members). (GC §11121)
6. Public comment must be allowed on agenda items before or during discussion of the items and before a vote, unless: (GC §11125.7.)
  - a. The public was provided an opportunity to comment at a previous committee meeting of the board. If the item has been substantially changed, another opportunity for comment must be provided.
  - b. The subject matter is appropriate for closed session.
7. Closed sessions (GC §11126.) At least one staff member must be present to record topics discussed and decisions made. (GC § 11126.1).

Closed session allowed:

- a. Discuss and vote on disciplinary matters under the Administrative Procedure Act (APA). (subd. (c)(3).)
- b. Prepare, approve or grade examinations. (subd. (c)(1).)

- c. Pending litigation. (subd. (e)(1).)
- d. Appointment, employment, or dismissal of executive officer (EO) unless EO requests such action to be held in public. (subd. (a), (b).)

No closed session allowed for:

- a. Election of board officers. (68 AG 65.)
  - b. Discussion of controversial regulations or issues.
8. No secret ballots or votes except mail votes on APA enforcement matters. (68 AG 65; GC §11526.)
9. No proxy votes. (68 AG 65.)
10. Meetings by teleconferencing (GC §11123.)
- a. Suitable audio or video must be audible to those present at designated location(s). (subd. (b)(1)(B).)
  - b. Notice and agenda required. (subd. (b)(1)(A).)
  - c. Every location open to the public and at least one member of board physically present at the specified location. All members must attend at a public location. (subds. (b)(1) (C), and (F).)
  - e. Rollcall vote required. (subd. (b)(1)(D).)
  - f. Emergency meeting closed sessions not allowed. (subd. (b)(1)(E).)

Reference: January 2009 "Public Meetings" Memorandum & Attached  
Guide to the Bagley-Keene Open Meeting Act  
[http://www.dca.ca.gov/r\\_r/bagleykeene\\_meetingact.pdf](http://www.dca.ca.gov/r_r/bagleykeene_meetingact.pdf)

## ETHICAL DECISION MAKING

Handout #2

Questions	Mandatory Disqualification	Need Further Discussion
<p>Have you served as</p> <ul style="list-style-type: none"> <li>• investigator</li> <li>• prosecutor, or</li> <li>• advocate</li> </ul> <p>before or during the adjudicative proceeding?</p>	<b>Yes</b>	
<p>Are you biased or prejudiced for or against the person?</p> <p style="text-align: center;">or</p> <p>Do you have an interest (including a financial interest) in the proceeding?</p>	<b>Yes</b>	
<p>Have you</p> <ul style="list-style-type: none"> <li>• engaged in a prohibited ex parte communication before or during adjudicative proceeding (may result in disqualification)?</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• complained to you about investigation currently in progress and said how great he or she is</li> </ul> <p>√ “Ex parte” communication: direct or indirect communication with you by one of the parties or its representative without notice and opportunity for all parties to participate in the communication (e.g. applicant or licensee (or someone acting on that person’s behalf))</p>		<b>Yes</b>
<p>Do you or your spouse or a close family member (such as an uncle or cousin) have personal knowledge of disputed evidentiary facts concerning the proceeding?</p>		<b>Yes</b>
<p>Do you doubt your capacity to be impartial?</p>		<b>Yes</b>
<p>Do you, for any reason, believe that your recusal would further the interests of justice?</p>		<b>Yes</b>