



INSTITUTE FOR LOCAL GOVERNMENTSM

Promoting Good Government at the Local Level

Clerks Quick Reference Sheet Safe Harbor Agenda Listings for Closed Sessions (§ 54954.5)

License/Permits (§ 54956.7)

- ⇒ Applicant(s): (Specify number of applicants)

Conference with Real Property Negotiations (§ 54956.8)

- ⇒ Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property)
- ⇒ Agency Negotiation: (Names of negotiators attending the closed session) (if specified negotiator can't attend – announce who will attend at the open session)
- ⇒ Negotiating Parties: (Specify name of Party (not agent))
- ⇒ Under Negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

Conference with Legal Counsel – Existing Litigation (§ 54956.9)

- ⇒ Name of Case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

-or-

- ⇒ Case Name Unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

Conference with Legal Counsel – Anticipated Litigation (§ 54956.9)

- ⇒ Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify number of potential cases)
- ⇒ The agency may also have to provide additional info on the agenda or in an oral statement prior to the closed session pursuant to section 54956.9(e)(2)-(5).
- ⇒ Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

Liability Claims (§ 54956.95)

- ⇒ Claimant: (Specify name unless unspecified pursuant to section 54961)
- ⇒ Agency claimed against: (Specify name)

Threat to Public Services or Facilities (§ 54957)

- ⇒ Consultation with: (Specify name of law enforcement agency and title of officer)

Public Employee Appointment (§ 54957)

- ⇒ Title: (Specify description of position to be filled)

Public Employment (§ 54957)

- ⇒ Title: (Specify description of position to be filled)

Public Employee Performance Evaluation (§ 54957)

- ⇒ Title: (Specify position title of employee being reviewed)

Public Employee Discipline/Dismissal/Release (§ 54957)

(No additional information is required)

Conference with Labor Negotiators (§ 54957.6)

- ⇒ Agency designated representatives: (Specify names of designated representatives attending the closed session) (If designated representative can't attend, announce who will attend at open session.)
- ⇒ Employee organization: (Specify name of organization representing employee or employees in question)

-or-

- ⇒ Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

Note: All citations are to California Government Code unless otherwise specified.

Sections in the California Code are accessible at <http://leginfo.legislature.ca.gov/>. Fair Political Practices Commission regulations are accessible at www.fppc.ca.gov/index.php?id=52.

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Safe Harbor Agenda Listings for Closed Sessions, *cont'd* (§ 54954.5)

Audit by California State Auditor's Office (§ 54956.75)

(No additional information is required)

Conference Involving a Joint Powers Agency (Specify Name) (§ 54956.96)

- ⇒ Discussion will concern: (Specify closed session description used by the joint powers agency)
- ⇒ Name of local agency representative on joint powers agency board: (Specify name)
- ⇒ (Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

For Multi-Jurisdictional Law Enforcement Agencies (§ 54957.8):

Case Review/Planning

(No additional information is required)

For County Hospital Boards/Hospital District Boards/ Hospitals Managed by Board of Hospital Trustees (§§ 37606, 37624, Health & Safety Code §§ 1461, 32106, 32155):

Report Involving Trade Secret

- ⇒ Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)
- ⇒ Estimated date of public disclosure: (Specify month and year)

Hearings

- ⇒ Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

For Agencies Providing Medi-Cal Services and Case Management (§ 54956.86):

Charge or Complaint Involving Information Protected by Federal Law

(No additional information is required)



About this Resource

This quick reference is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties.

Although the Institute tries to help local officials understand laws that apply to their public service, these materials are not legal advice. Attorneys can and do disagree on the best interpretation of the law in any given area. In addition, the law can and does change over time. Officials are encouraged to consult with an attorney or relevant regulatory authorities for up-to-date information and advice on specific situations.

The Institute welcomes feedback and suggestions for improving this resource:

Email: ethicsmailbox@ca-ilg.org

Subject: *Clerks Quick Reference*

Fax: 916.444.7535

Mail: 400 K Street, Suite 205 ▪ Sacramento, CA ▪ 95814

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OPEN SESSIONS

Teleconferencing § 54953(b)

- * Record in minutes that notice has been posted and a quorum participated from locations within the jurisdiction.

Meeting Outside Jurisdiction § 54954(b)

- * Record in minutes the purpose of meeting under section 54954.

Action on Non-Agenda Items § 54954.2(b)

Can be taken when:

- * An Emergency - Majority vote to invoke emergency; record a description of emergency that complies with section 54956.5
- * An Immediate Need - Document 2/3 vote taken and findings related to need to take action that came to agency's attention after agenda posted
- * The item was posted for a prior meeting (5 days or less prior) and at the prior meeting, the item was continued to the meeting at which action was taken

Adjourned Meetings § 54955 Special notice requirements apply. Minutes should record that the notice of adjournment was posted in accordance with section 54955.

Special Meetings § 54956 Special notice and waiver of notice rules apply. Record the waivers received and in what form in the minutes.

Emergency Meetings § 54956.5 Special requirements for posting the minutes apply.

CLOSED SESSIONS

Pre-Closed Sessions Disclosures

- * Record in minutes that open session disclosure was made pursuant to section 54957.7
 - ◇ Content of Disclosure: All items to be discussed during the closed session. May be reference to the items as listed on the agenda (see safe harbor agenda listings).
 - ◇ Any required announcements may be made at the location of the closed session as long as the public is allowed to be present

Post Closed Session Reporting § 54957.1

- * Real Estate Negotiations – Record report of action in minutes
- * Pending Litigation – Record report in minutes
- * Personnel Actions – Identify title of position
 - ◇ Exception: Report of dismissal or non-renewal of an employment contract deferred until after exhaustion of administrative remedies
- * Labor Negotiations
 - ◇ Report on agreement when final
 - Identify item approved (for example, the MOU)
 - Identify other party or parties to the negotiation

CONFLICTS OF INTEREST

Conflicts of Interest Under the Political Reform Act

- * Mandatory Disclosure/Identification (§ 87105/ 2 CCR §18702.5)
 - ◇ Section 87200 Filers only
 - ◇ Disclosure Content: Enough specificity as to *each* involved economic interest to be *understood* by the public
 - ◇ Timing: Made orally when agenda item is called
 - ◇ Record: In the official record (minutes)
 - ◇ Recusal/Leave Room – except consent
 - ◇ Exceptions:
 - Item on Consent – Announce, don't leave
 - Item in Closed Sessions – Make disclosure at open session
 - Disqualified Official Absent – No identification/disclosure required
 - ◇ Example of entry in the minutes:

“Immediately following the announcement of Agenda Item ____, [insert official name] announced she would be stepping down from the dais due to a conflict of interest which arises because [insert reason, for example, “she lives within 500’ of the proposed project”]. [Insert official name] then left the dais and the chambers.”
- * Permissive Disclosure– Record announcement if made (2 CCR § 18702.1(a)(5))
 - ◇ Local rules may require disclosure/more specificity
- * Quorum – Disqualified official does not count
- * Legally Required Participation (2 CCR § 18708)
 - Must be in minutes (2 CCR § 18708(b)(4)(A))

Conflicts of Interest Under Government Code § 1090

- * If official has a remote interest (§ 1091), record in minutes
 - ◇ The interest must be disclosed to the body of which the officer is a member *and* noted in the official records – applies to *all* remote interests
- * If the official has a non-interest (§ 1091.5), record in minutes
 - ◇ Note: Since three of the eleven non-interest categories require disclosure and recordation, a good practice is to record all announcement in the minutes