

The Ralph M. Brown Act

Closed Session
Safe Harbor and Reporting Workbook



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EMPLOYMENT

SAFE HARBOR TITLE

PUBLIC EMPLOYEE APPOINTMENT - EMPLOYMENT -

Pursuant to Government Code Section 54957

Title:

Specify description of position to be filled.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION -

Pursuant to Government Code Section 54957

Title:

Specify position title of employee
being reviewed.

**PUBLIC EMPLOYEE - DISCIPLINE - DISMISSAL -
RELEASE - COMPLAINT** - Pursuant to Government
Code Section 54957

REPORTING REQUIREMENT

ACTIONS REGARDING EMPLOYMENT STATUS OF PUBLIC EMPLOYEES GOV. CODE, § 54957.1(a)(5)

Report In Open Session:

- 1) any action taken to:
 - a) appoint
 - b) employ
 - c) dismiss
 - d) accept the resignation of or
 - e) otherwise affect the employment status
of a public employee.
- 2) title of position
- 3) the vote or abstention of every
member present
- 4) any change in compensation

Make the Report:

- 1) all employment actions except dismissal or
non-renewal of an employment contract
 - a) after the closed session
 - b) in open session
 - c) during the same meeting
- 2) dismissal or non-renewal of an employment
agreement:
 - a) the report is deferred until first
public meeting following exhaustion of
administrative remedies, if any.

Note: Employment contracts for city managers,
city attorneys, and similar executive positions must
be approved in open session and may not be
approved on the consent calendar.

LABOR NEGOTIATIONS

SAFE HARBOR TITLE

CONFERENCE WITH LABOR NEGOTIATORS –

Pursuant to Government Code Section 54957.6
Agency designated representatives:

Specify names of designated representatives attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced in open session held prior to adjourning to closed session.

Employee Organization:

Specify name of organization representing employee or employees in question.

Unrepresented Employee:

Specify position title of unrepresented employee who is the subject of the negotiations.

REPORTING REQUIREMENT

APPROVAL OF AGREEMENTS CONCLUDING LABOR NEGOTIATIONS GOV. CODE, § 54957.1(a)(6)

When Required to Report in Open Session:

- 1) after labor agreement is final, and
- 2) has been accepted or ratified by other party

Report in Open Session:

- 1) the labor agreement was approved
- 2) other party or parties to the negotiations
- 3) the vote or abstention of every member present

Make the report:

- 1) after closed session
- 2) in open session
- 3) during the same meeting

LITIGATION

SAFE HARBOR TITLE

CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION – Pursuant to Government Code Section 54956.9(d)(1)

Name of Case:

Specify by reference to claimant's name, names of parties, case or claim numbers.

CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION – Pursuant to Government Code Section 54956.9(d)(1)

Case Name Unspecified:

Disclosure would jeopardize the agency's ability to effectuate service of process on one or more unserved parties.

or

Disclosure would jeopardize existing settlement negotiations to the agencies advantage.

REPORTING REQUIREMENT

APPROVAL OF PENDING LITIGATION SETTLEMENTS
GOV. CODE, § 54957.1(a)(3)

When to Report: As soon as settlement is final.

If Legislative Body Accepts a Settlement Signed by the Opposing Party:

Report in Open Session:

- 1) approval of the agreement
- 2) substance of the agreement
- 3) the vote or abstention of every member present

Make the Report:

- 1) after closed session
 - 2) in open session
 - 3) during same meeting
-

If Final Approval Rests with Some Other Party or the Court:

Report in Open Session:

- 1) no action to report

When and What to Disclose:

- 1) as soon as the settlement becomes final and upon inquiry by any person, disclose:
 - a) approval of the agreement
 - b) substance of the agreement
 - c) the vote or abstention of every member present

SAFE HARBOR TITLE

CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION – Pursuant to Government Code Section 54956.9

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2) or (3)

Specify existing facts and circumstances that might lead to litigation on the agenda or orally announce them prior to closed session when known to potential plaintiff and make a record of a threat of litigation public and available for inspection as may be required by Government Code sections 54956.9, subdivisions (e)(2) and (e)(5).

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION – Pursuant to Government Code Section 54956.9

Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4) - Deciding Whether to Initiate Litigation.

Specific number of potential cases.

REPORTING REQUIREMENT

APPROVAL GIVEN TO INITIATE OR INTERVENE IN LITIGATION GOV. CODE, § 54957.1(a)(2)

Before Action Has Been Commenced:

Report in Open Session:

- 1) direction to initiate/intervene has been given
- 2) the action, defendants, and other particulars, once the action is formally commenced, shall be disclosed to:
 - a) any person upon inquiry
 - i.) unless to do so would jeopardize the agency's ability to effectuate service of process service or
 - ii.) to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage
- 3) the vote or abstention of every member present

Make the Report:

- 1) after closed session
 - 2) in open session
 - 3) during same meeting
-

APPROVAL OF LITIGATION DEFENSE, APPELLATE REVIEW, OR AMICUS CURIAE PARTICIPATION GOV. CODE, § 54957.1(a)(2)

Report in Open Session:

- 1) approval given to legal counsel
 - a. to defend
 - b. seek or refrain from seeking appellate review or relief
 - c. to enter as an amicus curiae
- 2) adverse party/parties, if known
- 3) substance of the litigation
- 4) the vote or abstention of every member present

Make the Report:

- 1) after closed session
- 2) in open session
- 3) during same meeting

REAL PROPERTY

SAFE HARBOR TITLE

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

– Pursuant to Government Code Section 54956.8

Property:

Specify the street address or, if no street address, the parcel number or other unique reference of the real property under negotiation.

Agency Negotiator:

Specify the names of negotiators attending the closed session – i.e. John Doe, City Manager or designee. If the designee participates in the place of the named negotiator(s) announce the name of the designee in open session prior to adjourning to closed session.

Negotiating Parties:

(Specify name of party [not the agent].)

Under Negotiation:

(Specify whether instruction to negotiator will concern price, terms of payment or both.)

REPORTING REQUIREMENT

AGREEMENTS CONCLUDING REAL ESTATE NEGOTIATIONS GOV. CODE, § 54957.1(a)(1)

When to report: After the agreement is final.

A. Reporting Requirement if the Legislative Body Approval Renders Agreement Final:

Report in Open Session:

- 1) the approval of the agreement
- 2) the substance of the agreement
- 3) the vote or abstention of every member present

Make the Report:

- 1) after the closed session
- 2) in open session
- 3) during the same meeting.

B. Reporting Requirement if Final Approval Rests with the Other Party to the Negotiations

Report in Open Session:

- 1) no action to report

Make the Report:

- 1) as soon as the other party or its agent has informed the local agency of its approval
- 2) upon inquiry by any person
 - a) the approval of the agreement
 - b) the substance of the agreement
 - c) the vote or abstention of every member present



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