



Office of the President
San Bernardino Valley College
701 South Mount Vernon Avenue
San Bernardino, CA 92410

MEMORANDUM

To: Gilbert J. Contreras, Ph.D., President, College Council Co-Chair
Andrea Hecht, Academic Senate President, College Council Co-Chair

From: Jesse Neimeyer-Romero, Ed.D., Executive Assistant to the President

Cc: Noel Arciero, Administrative Assistant II, Office of the President

Date: September 18, 2025

Re: The Brown Act & Proxies

Background

- The Brown Act is a California law that ensures local government meetings, like city councils, school boards, and county boards, are open and easy for the public to access. It says these groups must post their meeting agendas ahead of time and do their work in public meetings. People have the right to attend, record, and take part in these meetings. The law only allows private (closed) meetings in certain situations and gives ways to challenge or undo decisions if the rules are broken.¹
- San Bernardino Valley College maintains a standing College Council. This committee plays a central role in guiding campus-wide planning, addressing key institutional issues, and ensuring effective communication across all governance groups. SBVC College Council is made up of various members of the college's constituent groups, including the Academic Senate, Classified Senate, Associated Students, etc.²
- The San Bernardino Valley College Council is governed by the processes and procedures outlined in the Brown Act.³

¹ California Office of the Attorney General. (2003). *The Brown Act: Open meetings for local legislative bodies* [Pamphlet]. Sacramento, CA. Retrieved from <https://oag.ca.gov/system/files/media/the-brown-act.pdf>

² San Bernardino Valley College. (n.d.). *College Council*. San Bernardino Valley College. Retrieved September 12, 2025, from <https://www.valleycollege.edu/about-sbvc/campus-committees/college-council/index.php>

³ The SBVC President's Executive Assistant investigated the question of the SBVC College Council as a Brown Act body, that is, is it considered a local government meeting? College records for SBVC's College Council are

Issue/Question

- During the September 10, 2025 meeting of the San Bernardino Valley College Council, the issue of proxies was discussed. It was stated by a College Council voting member that the Brown Act allows for proxy attendance and voting.⁴
- Research about this provision and the question of proxies was requested by the President. This memorandum seeks to answer questions about proxies in relation to Brown Act bodies.

Findings

- In 1985, the California Attorney General addressed this question: *May legislative members of the California Commission on the Status of Women send proxies to vote in their place when they cannot attend a meeting?*

The Attorney General's conclusion was that the commission may not use proxies:

The third question presented is whether legislative members of the Commission may send proxies to vote in their place when they cannot attend a meeting. We conclude that they may not.

We need not discuss this matter in great detail since we have already analyzed this precise question with respect to legislative members of the California Commission on Criminal Justice. We concluded that there was no statutory authority for legislators to act either through "deputies" or other representatives with respect to service on state boards and commissions. We analyzed all the general law with respect thereto. Finding no statutory authority we applied the general principle that "a public body or public officer may not delegate discretionary duties or functions." The reasoning in that opinion is equally applicable to the legislative members of the California Commission on the Status of Women.

Accordingly, we conclude that the legislative members of the Commission may not send proxies to vote in their stead when they are unable to attend a Commission meeting.⁵

only accessible back to 2007 and all meetings were held in accordance with the Brown Act. A founding date or a founding body has not been currently located, as organizations, such as College Council, inherit the status of a Brown Act body if the body that created it (e.g. Academic Senate, Board of Trustees) was a body that itself was governed by the Brown Act. The college council at Crafton Hills College, Crafton Council, is also governed by the Brown Act, but the CHC President's Office is unaware of the date of creation of their council or what body may have created it. The San Bernardino Community College District's Chancellor's Office also does not have information pertaining to these details. Therefore, without deeper investigation and additional time allotted to the matter, the assumption must be made, on recent precedent, institutional memory, and in alignment with SBVC's sister institution, that the SBVC College Council is governed by the Brown Act and its provisions.

⁴ College Council Minutes, September 10, 2025

⁵ California Office of the Attorney General. (1985, April 2). *Opinion No. 85-103*.

https://www.oag.ca.gov/system/files/opinions/pdfs/85-103_0.pdf

- In a 2020 document that is designed to be a reference tool for planning councils and bodies, it was found that:

*“California’s Brown Act ... does not mention proxy voting. However, some legal opinions have found that proxy voting is prohibited because the Act assumes decisions will be made at meetings, and because proxy voting would circumvent the requirement for an open process ...”*⁶

The document includes a note that the City of San Francisco’s Good Government Guide, authored by the City Attorney, states that “an absent member of a board or commission may not vote by proxy.”⁷

- In 2006, the San Diego City Attorney issued an opinion about proxy voting in relation to community planning groups. The City Attorney determined that proxy voting in any meeting held to conduct public business is prohibited under the Brown Act.⁸
- The Brown Act itself does not expressly authorize proxies. While it rules that meetings of legislative bodies are open and public and votes must be taken in public, the definitions provided by the act do not provide for proxy voting. The legislative framework implies that each member must participate personally. There is no provision for someone else to vote on behalf of a member.⁹
- The Brown Act does allow for teleconferencing for participants. The use of teleconferencing comes with guidelines, such as inclusion in the agenda, the teleconferencing it accessible to the public, agendas are posted at each location, public comment is allowed at each location, and votes are by rollcall.¹⁰

In 2020, during the COVID emergency, a state of emergency was proclaimed that relaxed many of the regulations regarding teleconferencing. As of 2023, the Brown Act allows individual members who cannot attend in person under certain specified “just cause” or “emergency circumstances” to participate remotely even when no state of emergency applies. However, there are limits, including how many times a member may do so in a calendar year, notice requirements, and that a quorum must still meet in person from a location identified on the agenda. There are additional regulations that must be followed.¹¹

⁶ EGM Consulting, LLC. (2020, April 27). *Use of alternates and proxy voting by RWHAP planning councils/planning bodies* [Reference tool]. Planning CHATT. <https://targethiv.org/sites/default/files/file-upload/resources/PlanningCHATT-ProxyVoting-27APR2020.pdf> (targethiv.org)

⁷ Ibid

⁸ City Attorney, City of San Diego. (2006, November 3). *RC-2006-28: Planning Group Actions & Proxy Voting* [City attorney opinion]. San Diego, CA. Retrieved from <https://docs.sandiego.gov/cityattorneyreports/RC-2006-28.pdf> (San Diego Documentation)

⁹ California Office of the Attorney General. (2003).

¹⁰ Ibid

¹¹ Ibid

Conclusion

Altogether, through a reading of the Brown Act, a review of legal opinions examining the act, and an examination of policy documents that interpret the act there is a prohibition on the use of proxies by public bodies that are governed by the Brown Act.

However, the Brown Act allows public bodies to make use of teleconferencing for those who may not be able to be present for meetings in certain circumstances. In allowing for teleconferencing, additional processes and procedures must be followed to allow for the spirit of the Brown Act to play out.

The allowance for teleconferencing when taking into account “just cause” and “emergency circumstances” thus renders the use of proxies a moot point as participants are still allowed to participate without being physically present in the location of the meeting of the body governed by the Brown Act.

Recommendation

As the San Bernardino Valley College Council is governed by the Brown Act¹², the use of proxies should not be allowed.

For further examination on this question, if still unsettled and questioned by the College Council membership, it is recommended that the San Bernardino Valley College Council seek legal counsel.

¹² The SBVC President’s Executive Assistant’s investigation.