



DPR Advisory Committees Guidance on Bagley-Keene, Public Records Act, and Conflict of Interest Legal Requirements (April 4, 2025)

This document provides a summary and reminder of key components of transparency-related legal requirements for advisory committees of the Department of Pesticide Regulation (DPR). These advisory groups include the Pest Management Advisory Committee (PMAC), Agricultural Pest Control Advisory Committee (APCAC), Pesticide Registration and Evaluation Subcommittee for Pesticide Contamination Prevention Act, and the Environmental Justice Advisory Committee (EJAC). This summary is a high-level overview for general reference and is not comprehensive nor imposes binding requirements. This summary also does not represent legal advice. Advisory group members may seek their own legal advice. For specific questions, please contact your advisory committee DPR staff liaison.

Bagley-Keene Open Meeting Act

As state bodies, the advisory committees listed above must comply with the Bagley-Keene Open Meeting Act. (“Bagley-Keene Act;” Gov. Code, §§ 11120-11133.) DPR staff liaisons to the advisory committees work to ensure committee meetings are compliant with the Bagley-Keene Act and provide the required elements for transparency to the public. Key requirements include, but are not limited to the following:

- **10 Day Notice.** At least ten calendar days before a regular meeting, the state body must send the notice and agenda to any person who requests it, and post it on its website. (Gov. Code, § 11125, subd. (a).)
- **Public Participation.** The public is entitled to attend and provide public comment on each agenda item before voting on the item at meetings with minimal restrictions. (Gov. Code, §§ 11123, subd. (a); 11125.7, subd. (a).)
- **Quorum.** All committee business must be carried out during a public meeting, including voting and making decisions within the committee’s area of jurisdiction, which must be made with a quorum present and a majority of the committee in support of the action.

“Quorum” means half of the committee members, plus one and is the minimum number of members required to hold a meeting and make a recommendation.

- Serial Meeting Prohibition. A serial meeting is several communications, each among less than a majority of a state body, which taken together involve a majority. Specifically, the law states, “A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.” (Gov. Code, §§ 11122, 11122.5, subd. (b)(1).) Serial meetings can be conducted in-person or electronically (e.g., email, mobile phones, instant messaging, text messaging, social media, blogs). Serial meetings can also be conducted through communications with representatives of members acting as intermediaries. Common types of serial meetings:

- Sequential Chain – Communicating information on a committee-related topic through a series of conversations that involve a majority of members. For example, in the case of a five-person body, if member A speaks to member B, who then communicates information from that conversation to member C, this would constitute a prohibited serial meeting.
- Spoke and Hub Communications – When one person acts as the hub of a wheel to communicate committee-related topics to a majority of members. For example, in the case of a five-person body, if member A speaks to member B and then relays information from that conversation to member C, this would constitute a prohibited serial meeting.

Violations of these requirements, depending on the facts, can result in an action by the advisory committee being voided, criminal misdemeanors, and harm to public trust in the transparency of government business. For this reason, it is important for advisory committee members to generally only discuss matters within the advisory committee’s jurisdiction with each other at a noticed public meeting of the committee. The serial meeting prohibition does not prevent state body members from planning upcoming

meetings by discussing times, dates, locations, and order of agenda items, but only if planning communications do not include substantive discussion of agenda items.

- **Teleconference Meetings.** A “teleconference meeting” occurs when state body members participate at different locations and communicate with each other electronically through audio, or audio and video. (Gov. Code, §§ 11123, subd. (b)(2); 11123.2, subd. (a)(1).) Any state body that is an advisory committee may choose to follow either the traditional or alternative teleconference rules, but not at the same time. (Gov. Code, § 111232.5, subd. (b).) Members of state advisory bodies can participate in meetings remotely from a remote location, and the state advisory body does not need to disclose the member’s remote location. The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and emailing notice to any person who has requested notice of meetings. The notice of the meeting shall also identify the primary physical location. All decisions taken during a meeting by teleconference must be by rollcall vote.

Effective January 1, 2024 until December 31, 2025: Members of the state body participating remotely count towards establishing a quorum. At least one staff member of the state body must be present at the primary physical meeting location during the meeting. Generally, members of the state body shall visibly appear on camera during the meeting.

Effective January 1, 2026: A quorum of the members of the state body must be in attendance at the primary physical meeting location. Members of the state body participating remotely do not count towards establishing a quorum.

For additional guidance, see the California Department of Justice’s [Bagley-Keene Open Meeting Act Guide](#) (2024).

Conflicts of Interest

Advisory committee members are subject to certain conflict of interest rules. In particular, advisory committee members are prohibited from making formal or informal appearances or oral or written communications to DPR for the purpose of influencing a decision by DPR on a contract, grant, loan, license, permit, or other entitlement for use, if the appearance or communication is compensated by a third party. (Gov. Code, § 87104.) These conflict-of-interest rules apply once the advisory committee member is appointed to an advisory body and continues for the duration of their membership on the advisory body.

A. When is a communication or appearance “for compensation”?

Advisory committee members cannot influence DPR decisions on a specific contract, grant, loan, license, permit, or other entitlement for use when being paid any form of compensation for a communication or appearance that is made with the purpose of influencing a decision by DPR. Members, however, can appear on a voluntary basis on behalf of a non-profit, if they receive no compensation from the non-profit. Salaries by an employer or third party, one-time payments, or stock options, and all other forms of compensation would constitute forms of “compensation.”

B. Examples of Prohibited Communications or Appearances

1. Voting

The advisory body member is prohibited from voting on a matter if the advisory body in the vote is making recommendation or decisions regarding a specific grant, contract, permit, loan, license, permit, or other entitlements for use, and if the advisory member receives compensation for the purpose of influencing that decision.

2. Communications to DPR

The advisory committee member is prohibited from appearing before or communicating with DPR, for compensation, at a formal meeting or hearing, in non-public meetings, in phone calls, or in writing (including emails), for the purpose of influencing a specific grant, contract, permit,

loan, license, permit, or other entitlements for use. This is applicable to the entirety of the contracting or permitting process and not just during formal public comment periods.

3. Submission of a Contract Bid or Grant Application that Identifies the Member

The advisory committee member is prohibited from submitting a bid for a contract or application for a grant to DPR that is signed or otherwise submitted by an advisory committee member, that identifies the advisory committee member as completing tasks in a scope of work, that lists the member as an administrator, fiscal sponsor, principal investigator, or co-principal investigator constitutes a prohibited communication. Submission of the bid or application constitutes the prohibited communication, even if the advisory committee member does not otherwise advocate to DPR on behalf of the bid or contract. Note that contract and grant proponents must follow all applicable requirements requiring identification of individuals performing contract or grant work. Failure to do so could constitute a violation of the contract or grant process and may result in rescission of the contract or grant.

4. Communications Related to a Subcontract, Subaward, Subgrant, or Amendment to a Contract or Grant that Identifies the Member

The advisory committee member is prohibited from submitting a bid that includes a subcontract or subaward identifying the advisory committee member as performing work under the contract, a grant application that includes a subgrant identifying the advisory committee member as performing work under the grant, or an amendment to a grant or contract that does the same. In addition, an advisory committee member may not communicate to DPR about a decision to authorize a subcontract, subaward, subgrant or amendment that identifies them as performing work under the contract or grant. Contract and grant proponents must follow all applicable requirements regarding identification of individuals performing contract or grant work, including work under subcontracts or subgrants. Failure to do so could constitute a violation of the contract or grant process and may result in rescission of the contract or grant.

C. Violation of Government Code Section 87104

A knowing or willful violation of this section may result in a member being guilty of a misdemeanor and fined up to the greater of \$10,000 or three times the amount of the amount unlawfully received. If a court determines a violation occurred and that the official action might not otherwise have been taken or approved if not for the prohibited communication, the contract or grant may be voided. (See Gov. Code §§ 91000, 91003.)

Note that an advisory committee member's organization may continue to be eligible for a grant or contract. However, that organization would need to identify a different member of the organization to sign or be the administrator for any applications and awarded grants or contracts. Please also note this prohibition does not extend to general advocacy by advisory committee members to DPR for general policies, programs, or funding allocations related to the interest group or community that they may be appointed to represent. The prohibition is limited to appearances or communications relevant to a specific contract, grant, loan, license, permit, or other entitlement for use being offered by DPR.

Advisory committee members are responsible for reviewing their personal and financial interests before each committee meeting and determining if their participation on an agenda item could result in a public perception of bias. Committee members who identify a potential bias should disclose and recuse themselves from participating in the discussion of the item.

Advisory committee members who have questions about potential conflicts of interest should contact your advisory committee DPR staff liaison

Public Records Act

The use of work or personal email, texts, or messaging applications to discuss committee business either within or outside of the public meeting setting may be required to be gathered and produced to the public if responsive to a Public Records Act request. (See Gov. Code, § 7920.000 et seq.) If a request is received by DPR and the member has records that are responsive to this request, DPR will work with the member to gather and produce such responsive records. To avoid generating such public documents, members may prefer to avoid substantive written

communications with fellow committee members, and to confine emails and texts to logistical issues only, such as possible dates and/or locations of future meetings. By discussing substantive committee business during public meetings only, all records of the Committee will be publicly available on DPR's website.

When persons distribute writings to a majority of a state body in connection with matters subject to consideration at a public meeting of the state body, the writings are public records that are generally disclosable under the California Public Records Act. (Gov. Code, § 11125.1; *see generally* Gov. Code, § 7920.000 et seq.) Such writings include notices and agendas, agenda packets, memos or reports prepared by or at the direction of staff, memos or written comments prepared by state body members, and support and opposition letters from the public. (Gov. Code, §§ 11125.1, subd. (f), 7920.545.) Generally, DPR staff will post these materials to the DPR website. If advisory committee members receive documents pertaining to agenda items that DPR staff are not aware of (such as by emails directly to advisory committee members only), DPR staff request that members share those with DPR so that staff can post those online to ensure compliance with the public availability requirement.