



(Government Code §§54950 – 54963)



# General Rule

- Provides legal minimums for transparency in decision-making
- Decision-making bodies must conduct business in open and in public meeting to ensure that the public is fully informed about local decisions



# The Act Applies to Legislative Bodies of Local Agencies

Governing bodies-Board of Supervisors/City Council

Subsidiary bodies-commissions, committees created by charter, ordinance, resolution or formal action of a legislative body

# WHAT IS A MEETING?



- A meeting is any situation involving a **majority** of a **decision-making body** in which business is transacted or discussed.
  - Does not require that action be taken
  - Majority of governing body cannot talk privately about an issue before the body no matter how the conversation occurs, whether by
    - telephone,
    - e-mail or
    - at a local coffee shop

# Examples Of Meetings

- Formal meetings
- Collective briefings
- Retreats
- Site tours
- Meal gatherings during a formal meeting





# Unlawful Meetings

- Pre-meetings
- Post-meetings
- Serial meetings





# Serial Meetings Prohibited

- Serial meetings are prohibited
- Serial meeting is a series of meetings conducted through direct communications, intermediaries or technological devices **to develop a concurrence as to action to be taken.**
- Hub and spoke-A to B, A to C and A to D
- Sequential-A to B, B to C, C to D
- Simultaneous-A,B,C and D have joint conversation by phone or other means

# How Do Serial Meetings Occur?

- Technology
  - Phone
  - Fax
  - E-mail: Beware of e-mail exchanges
- Human intermediaries





# Collective Concurrence

- Substantive conversations
- Facilitating agreement or compromise
- Advancing a motion or resolution
- Debating





# Serial Meetings: Practice Tips

Avoid substantive communications (directly or through others) with other members re items that are on an agenda or likely to be placed on a future agenda

Discussing procedural issues (time, date and order of matters on an agenda) is not prohibited. But do not discuss substantive communications

Staff briefings are permissible to answer questions/provide information to members if staff does not communicate the comments of members to other members of the legislative body

# Permissible Gatherings

- Not every gathering of governing body members amounts to a violation
- Attendance at an educational conference or a social event is not a violation if a majority of the governing body does not discuss business at the event.



# Types of Meetings



- Regular meetings-time and place established by ordinance, resolution or bylaws
- Special meetings-called 24 hours before meeting by the presiding officer or a majority of the board/legislative body
- Emergency meetings-crippling activity, work stoppage or other activity that severely impairs public health/safety-1 hour notice

# Basic Rights of the Public

- To receive agenda materials
- To notice of meetings
- To attend meetings
- To record meetings
- To comment at meetings
  - Items on the agenda
  - Non-agenda matters





# Access to Written Materials

- Agenda and any written materials related to items on agenda that are distributed to a member are public records
  - Emails or other written material relating to an agenda item that is sent by staff directly to a member must be provided to all members
  - Draft staff reports that are provided to individual members for comment/input must be provided to others
  - “On the agenda” includes items not only on upcoming agenda but items which are reasonably foreseeable to be on any future agenda
  - Draft staff reports provided to individual members for comment must be provided to other members.
- Documents provided less than 72 hours before meeting must be made available to the public at the same time as provided to majority of members
- Documents provided by others (public) must be made available promptly after the meeting

# Agenda Requirements

- Agenda must contain a brief description of each item of business to be transacted or discussed
- Closed session must be on the agenda
- Must include time for public comment before or during agenda item



# Right to Attend Meeting

- Accessible to disabled persons
- No precondition to attend
- If sign-in sheet, must clearly state that it is optional





# Conducting Meeting

- Must permit audio/videotape recording by public and media unless disrupts meeting
- No secret ballots
- No mandatory sign-in
- May use teleconferences for public comment



# Right to Comment



- On each agenda item
  - Before conclusion of consideration of item (if discussion item) or before action taken (if action item)
- On any matter within the body's jurisdiction that is not an agenda item
  - May schedule for any time in meeting
  - Members may not discuss or respond substantively



# Limits on Public Comment

- May limit amount of time for each item
- Reasonable limit on total public comment time on an item
- No right to disrupt
- No right to a response from body or its members

# Consequences of Brown Act Violation

- Civil action
  - Injunction against violation
  - Decision voidable (right to cure)
  - Attorneys fees and costs
- Criminal sanctions
  - Misdemeanor

