

# THE BROWN ACT

# PURPOSE

- To give the public access to the actions and deliberations of local legislative bodies.
- To enable the public to attend and participate in local government meetings.
- To prohibit governmental decisions from being made in secret, unless a closed session exception applies.

# BASIC RULE

All meetings of the legislative body of a local agency shall be open and public, unless an exception applies.

# LEGISLATIVE BODY

- Governing body
- Appointed body
- Standing committee

# MEETING

- A meeting is any gathering of a majority of the members of a legislative body at the same time and location to hear, discuss, deliberate or take action upon any item which is within its subject matter jurisdiction.

# MEETINGS IN DISGUISE

- Caution:

A majority of the members of a legislative body shall not...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action of any item of business that is within the subject matter jurisdiction of the legislative body. (Gov. Code, § 54952.2(b)(1).)

# SERIAL MEETINGS

- **Daisy Chain:** If Member A contacts Member B to discuss, deliberate, or take action on any item within the subject matter jurisdiction, and Member B contacts Member C, and so on, until a quorum has been involved.
- **Hub and spoke:** An intermediary—such as a staff member—contacts at least a quorum of the members to discuss, deliberate, or take action on any item of business within the subject matter jurisdiction

# E-MAIL/TECHNOLOGY MEETINGS

- Use of e-mail or other technology/media by a majority of a legislative body to discuss, deliberate, or take action on items within the body's jurisdiction is not authorized under the Brown Act.

# RECOMMENDATIONS FOR E-MAIL

- Avoid e-mailing the entire committee.
- Communication with County staff.
- If absolutely necessary, provide information only.
  - Send email to yourself and blind copy board members (to avoid accidental reply all).
  - Do not solicit responses.

# RECOMMENDATIONS FOR E-MAIL

- Think carefully before hitting send.
- Remember, your e-mail can be forwarded by others to a majority of members.
- Be careful replying to emails.
  - Do not direct a reply to a majority of members.

# EXCEPTIONS TO MEETINGS

- Individual contacts
- Conferences
- Community meetings
- Other legislative bodies
- Standing committee
- Social or ceremonial events

# AGENDAS

- A written agenda must be prepared for each regular meeting and posted at least 72 hours before the meeting.
- The agenda must include a brief description of all items to be discussed.

# NON-AGENDIZED ITEMS

- Action or discussion on items not on the posted agenda is generally prohibited. Members may only:
  - Briefly respond to public statements or questions,
  - Ask a question for clarification,
  - Make a brief announcement,
  - Make a report of his or her activities,
  - Provide a reference to staff or other sources for factual information, or
  - Request staff to report back to the legislative body in a subsequent meeting.

# ADDING ITEMS TO THE AGENDA

- A legislative body may take action on items of business not appearing on the agenda:
  - When a majority decides that an **emergency** situation exists.
  - When two-thirds of the board (or all members if less than two-thirds are present) determine there is a **subsequent need to take immediate action** and that the need for action “came to the attention of the local agency subsequent to the agenda being posted.”
  - When the item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.