

Boards & Commissions Basics

- Purpose of Boards and Commissions
- Types of Boards and Commissions
- Duties of Membership



Purpose of Boards and Commissions

- Provide important perspective to County government
- Gather and analyze public input and recommend options
- Provide legally-required advice or decisions (in certain cases)
- Further the overall public benefit



Types of Boards and Commissions

- Advisory
 - Provide recommendations or advice to the Board of Supervisors
- Decision-making
 - Make final County decisions

Types of Boards and Commissions

- What determines type?
 - State law, County Charter, or Board action (ordinance or resolution)
- Resources
 - Your Board or Commission’s formation documents
 - <https://bnc.smcgov.org/>, “duties” description and “authority”
 - Staff liaison

Advisory Boards and Commissions:

Agricultural Advisory Committee
Arts Commission
Bicycle and Pedestrian Committee
Charter Review Committee
Child Abuse Prevention Council
Child Care Partnership Council
Commission on Aging
Commission on Disabilities
Commission on the Status of Women
Community Corrections Partnership Council
Confined Animal Technical Advisory Committee
Domestic Violence Council
Emergency Medical Care Committee
Health Care for the Homeless/ Farm Workers Health Program

Housing and Community Development Committee
Juvenile Justice Coordinating Council
Juvenile Justice & Delinquency Prevention Commission
Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Commission
Measure K Oversight Committee
Mental Health and Substance Abuse Recovery Commission
Midcoast Community Council
North Fair Oaks Community Council
Parks and Recreation Commission
Pescadero Municipal Advisory Council
Public Authority Advisory Committee
Veterans Commission
Youth Commission

Non-Advisory (Decision-Making) Boards and Commissions:

Assessment Appeals Board

Bayside Design Review Committee

Board of Building Permit Appeals

Business License Board

Civil Service Commission

Coastside Design Review Committee

Deferred Compensation Committee

First 5 Commission

Planning Commission

San Mateo Medical Center Board of Directors

Treasury Oversight Committee

Duties of Membership

- Learn the function of your board
- Prepare for and attend meetings regularly
- Comply with applicable laws
- Respect fellow board members and the public
- Engage in board functions to improve the community



Legal Overview

- Brown Act
- Public Records
- Ethical Considerations
- Form 700



Government Transparency Laws

- Ethical value of government transparency laws (including Brown Act, Public Records Act, Political Reform Act)
 - **Trustworthiness:** the public trusts a process it can observe.
 - **Respect:** all perspectives have a right to be heard and considered in the public decision making process
- The conduct of the public's business IS the public's business

The Brown Act



*I want to be in
The Room Where It Happens*



Brown Act – Public Meetings

- Purpose: public business is done in public meetings
- “All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.”

Brown Act

- To Whom Does it Apply?
- What's a Meeting?
- Agenda Requirements
- The Public's Rights
- Closed Sessions
- Consequences for Violations

Brown Act – to whom does it apply?

- Applies to “legislative bodies”
- “Legislative body” means:
 - Governing board of local agency
 - Boards, commissions, and committees created by formal action of the governing board
- Does not apply to individual decision makers, such as department heads

Committees Not Subject to Brown Act

- Ad hoc advisory committees made up solely of legislative body members and constituting less than a quorum
 - No continuing subject matter jurisdiction
 - Limited term

What is a Meeting?

- Any congregation of a majority of the members of the legislative body at the same time and place to hear, discuss, or deliberate on any matters within its jurisdiction.
- **What this means:** A majority may not consult outside an agency-convened meeting.

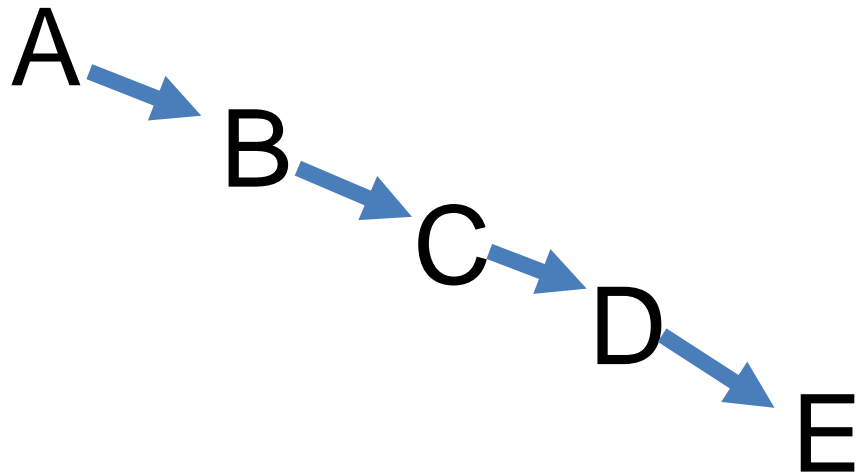
****AB 361 provides for virtual meetings during state of emergency****

Illegal Meetings

- A majority of members may not “develop a concurrence as to action” on business through serial meetings, intermediaries, communication, or other means of subterfuge.
- Use caution with social media

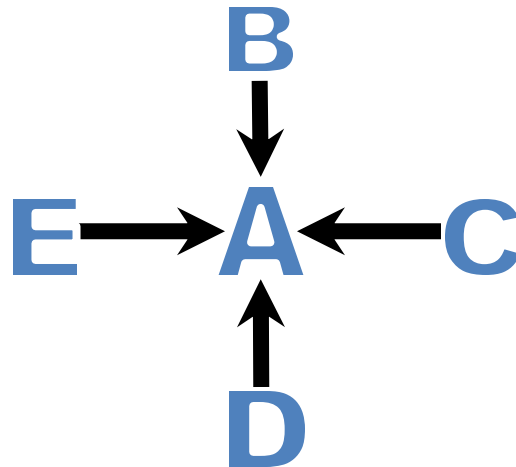
Illegal Meetings

“Serial” Meeting (5 members)



Illegal Meetings

Intermediary or “Hub” Meeting (5 members)



What is NOT a meeting?

- Individual contacts between board members and another person
- Majority of board* at
 - Conference open to the public
 - Social or ceremonial occasions
 - Open and noticed meeting of another body of the local agency, or a legislative body of another local agency
 - Public meeting on topic of local community concern

* As long as majority does not discuss board business

Agenda and Notice Requirements

- Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.
- Regular meeting: agenda posted 72 hours prior
- Special meeting: agenda posted 24 hours prior
- Agenda must contain brief description of every item to be discussed
- Closed session items must be listed
- Must include time for public comment

Limited Circumstances Where Board May Speak to Items NOT on Agenda

- Brief response to statements or questions
- Brief announcement or report on own activities
- Ask questions for clarification
- Refer to staff for information
- Request staff to report back
- Direct staff to place matter on future agenda

Rights of the Public

- Right to be notified of items on agenda
- Right to attend without identifying oneself
- Right to record the meeting
- Right to speak before or during consideration of an item
- Right to see Board materials
- Broad right to speak to variety of topics

Closed Session

- Allowed for specified grounds:
 - Litigation
 - Personnel
 - Real property
 - Labor negotiations
- Closed session items must be briefly described on the posted agenda and the description must state the specific statutory exemption.
- Must report out in open session “action taken”



Disclosure of Information from Closed Session

- Disclosure or leaking of information learned in closed session is prohibited
 - Injunctive relief, referral to grand jury, disciplinary action
- Disclosure permitted when:
 - Legislative body grants consent
 - Confidential inquiry to DA or grand jury due to perceived violation of law
 - Information that is not confidential

Consequences of Brown Act Violations

- Lawsuit brought by the DA or any interested persons
- Violations may be stopped by civil lawsuit
- Some actions, if not “cured,” may be declared void
- Criminal sanctions for intentional violations (up to 6 months in jail/\$1,000 fine)
- Attorney’s fees



Public Records

- Public Records Act enacted by Legislature in 1968
- Proposition 59 in 2004 created a constitutional right of access to public records
- Board records are open to the public
- Connection to Brown Act: Non-exempt materials distributed to the board during a public meeting are public records and must be made available for inspection and copying “without delay”



What's a Public Record?

- “Public Records” include
 - any writing
 - containing information relating to the conduct of the public's business
 - prepared, owned, used, or retained
 - by any state or local agency
 - regardless of physical form or characteristics
- Definition is very broad
 - Includes emails, calendars, etc.

Rights of Access

- Right to inspect records
 - Right to obtain copies of records
- * Requests can be made orally or in writing

Information on Personal Devices or Accounts

- Information kept on a home computer, phone, or email or text **related to government business may be subject to disclosure** unless exempt. This includes email, calendar, text messages, etc.
- Personal information is **not** subject to disclosure and may be redacted to protect privacy interests.
- However, it can be difficult to separate personal information; consider maintaining separate accounts or files for board business.

What's NOT a Public Record?

- Many exemptions (76) where records may be withheld and not disclosed to the public.
- Most frequently used:
 - Some preliminary drafts that are not retained in the ordinary course of business
 - Pending litigation records
 - Some private personal information if disclosure would constitute unwarranted invasion of personal privacy (e.g., social security numbers, medical information, tax information)
 - Some law enforcement records
 - **CATCH-ALL**: public interest in *not* disclosing clearly outweighs public interest in disclosure

Public Records

- If agency receives a public records request it is required to:
 - Respond in writing within 10 days
 - Assist the member of the public in making a focused and effective request, if the request is unclear
 - Turn over copies of documents within a reasonable time

Public Records

- If you receive a request, consult with your liaison or counsel quickly to respond within the 10-day requirement
- Consequences for failing to turn over public records are serious.
 - Lawsuit
 - Paying plaintiff's court costs
 - Paying plaintiff's attorney's fees

Ethical Considerations

- Public service ethics are different
- Public service values: trustworthiness, fairness, responsibility, respect, compassion, loyalty
- Laws play a bigger role
- Gut is not always a reliable guide

Conflicts of Interest

- The standing rules for boards and commissions specify that all members must comply with the Political Reform Act and Government Code Section 1090.
- Each board and commission member is urged to carefully consider the possibility of a conflict of interest before participating in a decision and to always err on the side of caution.
- Goal: High level overview of complex area
- Additional resources:
 - Fair Political Practices Commission
 - <https://www.fppc.ca.gov/learn.html>

Government Code Section 1090

- Avoiding financial conflicts of interest in CONTRACTS
- “[County officers or employees] shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members”
- Applies to virtually all local officers, whether elected or appointed
- Violation can result in voiding of contracts, and criminal, civil, administrative penalties

Resources: [FPPC Quick Guide to Section 1090](#); [FPPC Overview of Section 1090 and FPPC Advice](#)



Conflicts of interest in Government DECISIONS: Political Reform Act

No public official shall make, participate in making, or in any way attempt to use their position to influence a governmental decision if they know (or have reason to know) that they have a financial interest in the decision.

Five types of interests that may result in disqualification:

- Business entity investments
- Real property
- Sources of income
- Sources of gifts (>\$500)
- Personal finances

Conflicts of interest in DECISIONS Political Reform Act

IF YOU ARE DISQUALIFIED

- Do not discuss or influence your staff or colleagues
- Identify the nature of the conflict at meeting
- Leave the room (unless the matter is on consent)

Conflicts of interest in DECISIONS

Political Reform Act

EXAMPLE

- A planning commissioner is an architect. If the commissioner would be one of four architects in the local agency's jurisdiction that might receive a contract to design a proposed new development, **recusal is required** from a vote to approve the new development.
- There was a reasonably foreseeable chance that the decision would financially impact the official.

Resource: [FPPC Recognizing Conflicts of Interest](#)

Ethics Training

- AB 1234 requires ethics training for certain local officials every two years
- Required for any member who receives any type of compensation, salary, or stipend or reimbursement

Resource: FPPC [AB 1234 ethics training](#)



Form 700 – Financial Interest Disclosure

- Transparency includes obligation for high-level public servants to disclose financial interests
 - Assuming office
 - Annually while in office
 - Upon leaving office

Form 700 – Financial Interest Disclosure

- Who must file?
 - High level public positions specified by law
 - Employees and officers designated in the agency's **Conflict of Interest Code**
 - Consultants, if they make governmental decisions
- What types of interests must be disclosed?
 - Generally, investments, real property, business positions held, income, gifts (>\$520 in 2022)
 - Includes your immediate family's income and investments

Resource: FPPC [Form 700 Reference Pamphlet](#); FPPC [Frequently Asked Questions: Form 700 Disclosure](#)

Examples of Boards & Commissions in County Conflict of Interest Code

- Assessment Appeals Board
- Board of Building Permit Appeals
- Civil Service Commission
- Design Review Committee
- Treasury Oversight Committee
- Licensing Board
- Parks and Recreation Commission
- Deferred Compensation Committee

**Planning Commission members are specifically mandated by state law to file Form 700.