

**FIRST 5**

**BROWN ACT TRAINING**

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# DUTIES OF MEMBERSHIP

Learn

- Learn the function of your commission

Prepare

- Prepare for and attend meetings regularly

Comply

- Comply with applicable laws

Respect

- Respect fellow commission members and the public

Engage

- Engage in commission functions to improve the community



Brown Act

Public Records

Ethical  
Considerations

Form 700

# LEGAL OVERVIEW

# 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



# BROWN ACT – PUBLIC MEETINGS

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Purpose: public business is done in public meetings

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“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 commission of local agency
  - ▶ commissions, commissions, and committees created by formal action of the governing commission
- ▶ Does not apply to individual decision makers, such as department heads





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

## COMMITTEES NOT SUBJECT TO BROWN ACT



- ▶ 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.

## WHAT IS A MEETING?

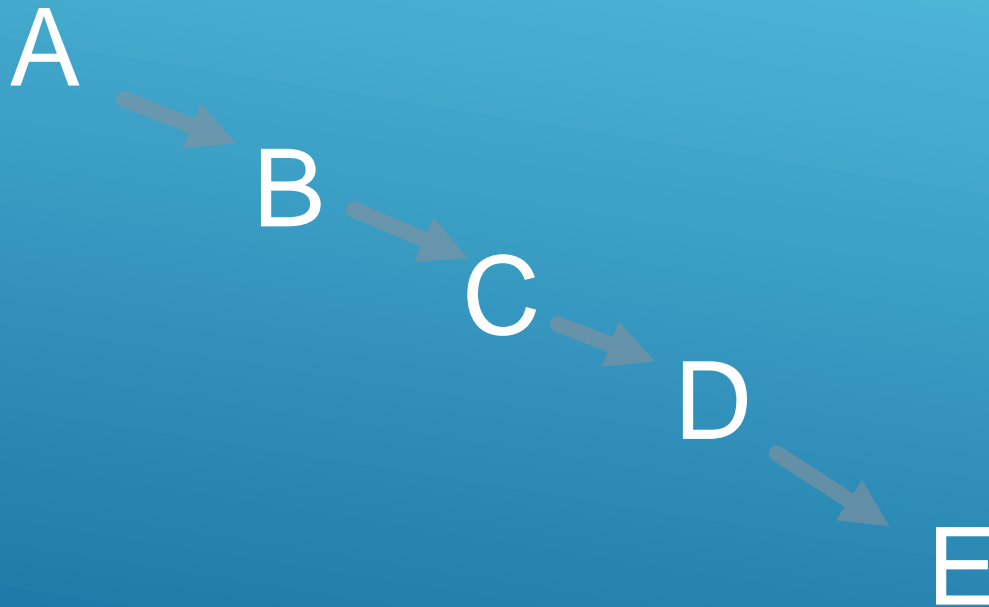


- ▶ A majority of members may not “develop a concurrence as to action” on business through serial meetings, intermediaries, communication, or other means of subterfuge.
- ▶ Use caution with social media

## **ILLEGAL MEETINGS**



“Serial” Meeting (5 members)

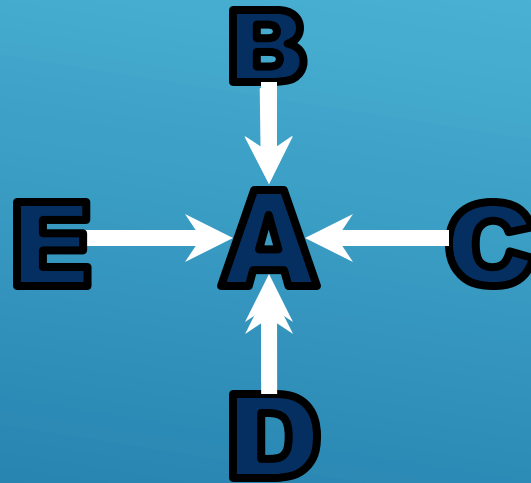


**ILLEGAL MEETINGS**



# ILLEGAL MEETINGS

Intermediary or “Hub” Meeting (5 members)



# WHAT IS NOT A MEETING?

- ▶ Individual contacts between commission members and another person
- ▶ Majority of commission\* 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 commission business



- ▶ 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

## **AGENDA AND NOTICE REQUIREMENTS**



- ▶ 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

**LIMITED CIRCUMSTANCES WHERE  
COMMISSION MAY SPEAK TO ITEMS NOT  
ON AGENDA**





- ▶ 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 commission materials
- ▶ Broad right to speak to variety of topics

## RIGHTS OF THE PUBLIC



- ▶ 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

## DISCLOSURE OF INFORMATION FROM CLOSED SESSION



- ▶ 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

## CONSEQUENCES OF BROWN ACT VIOLATIONS

