

Bagley-Keene Open Meeting Act

Training for State Bodies

Purpose of Open Meeting Act

- Promotes an open consensus building model of decision making.
- Ensures the public a seat at the table.



What is a “state body?”

- A body created by statute or executive order.
- Delegated body created by state body.
 - A body that exercises delegated authority.
 - Two or more members.

What is a “state body?”

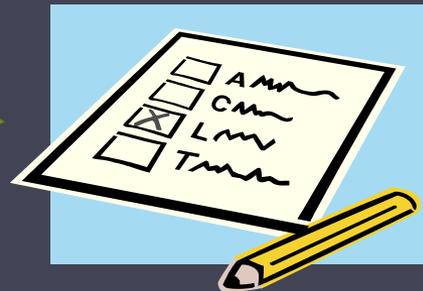
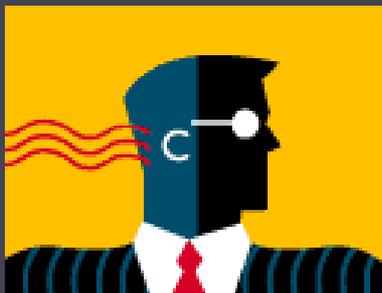
- Advisory body created by state body.
 - Subcommittees, task forces, advisory committees, etc.
 - Three or more members.
 - Created by official action of state body or state body member.

What is a “state body”?

- Public or private body funded by state body with a state body member representative.
- New members.

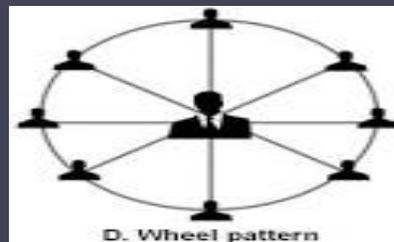
What is a meeting?

- Gathering of a majority of members of a state body.
- Includes all phases of decisionmaking from information gathering to final vote.



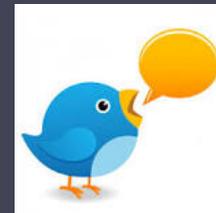
Serial Communications: Prohibition

- Members of a state body must avoid serial communications outside of a public meeting among a quorum of members or through an intermediary.



Serial Communications: Prohibition

- Prohibition applies to ALL forms of communication.



Serial Communications: Exception

- Staff may brief one board member one at a time.
- Must not share communications from other board members during briefing.

What is “not” a meeting?

- Communication with one other person (but not a serial meeting).
- Exceptions for some events at which a quorum is present (e.g., public conferences, public meetings, social events, standing committee meetings).

Meeting Notices

- Agenda must be posted on Internet 10 calendar days before meeting
- Must provide notice in writing to anyone who requests it.

Meeting Notices

- Brief description of particular matters to be discussed.
- Must give the average person enough information to decide whether to attend or participate in the meeting.
- Notice must be provided in alternative formats upon request by any person with a disability.

Meeting Notices

- May not add items to agenda during 10 day notice period.
- Exceptions: Emergency (majority vote) or need to take immediate action (2/3 vote).

Teleconference Meetings

- Subject to special notice requirements.
- Teleconference location must be accessible to public and ADA compliant.



Rights of the Public

- Right to participate at public meetings.
- No identification required.
- Reasonable time limits.



Rights of the Public

- Right to access public meeting records.
- Best practice is to post agency's public meeting records on website before meeting.
- Some records may be exempt from disclosure.

Closed Sessions

- List of limited exceptions. Some exceptions are specific to one agency.
- Personnel decisions.
- Pending litigation.

What is Pending Litigation?

- State body is a party, wants to initiate, or has significant exposure.
- Courts look to Brown Act § 54956.9 for facts establishing significant exposure.
- Examples include a demand letter or statement of threatened litigation at public meeting.

Closed Sessions: Procedures

- Specific notice requirements on agenda.
- Specific pre-convening and post-convening requirements.
- Special attendance requirements and restrictions.

Closed Sessions: Procedures

- Board members may not stray into other topics, even if related.
- Board members must keep closed session discussion confidential.

Penalties and Enforcement

- Violations may result in criminal and civil penalties and attorney fee awards.
- Governmental decision may be invalidated.

