

# THE BROWN ACT & FINANCIAL DISCLOSURE LAWS

*Office of the Long Beach City Attorney*

Downtown Long Beach Alliance

October 7, 2021

# The Brown Act General Principles



All meetings shall be open and public



Actions and deliberations must be taken openly



All persons shall be permitted to attend and participate in the meetings



Only matters on the agenda can be discussed

# The Brown Act Appearance of Impropriety



Brown Act encourages avoiding the possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation.



Besides the Brown Act, there may be other reasons, such as due process considerations, why Commission members should avoid giving public testimony or trying to influence the outcome of proceedings before another body.

# Who is Subject to the Brown Act?



Applies to “legislative bodies” including advisory commissions created by the Long Beach City Council or the Long Beach City Charter



Applies to subcommittees created by formal action of the advisory commission

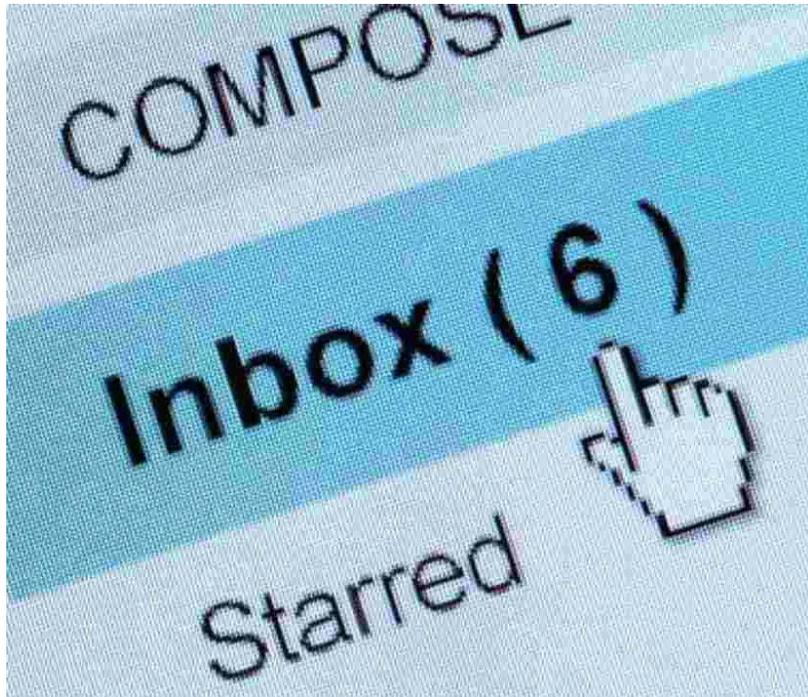
But not temporary ad hoc advisory committees made up solely of commission members and constituting less than a quorum

# What Constitutes a Meeting?



- ▶ Any congregation of a majority of the commission members at the same time and place to hear, discuss or deliberate on any item that is within the subject matter jurisdiction of the commission
- ▶ Includes regular and special meetings
- ▶ Quorum = 50% + 1 to hold a meeting

# Serial Meeting/Series Communications



- ▶ Beware of email communications. A majority cannot email each other to discuss topics before the commission.
- ▶ Beware of “serial” contacts. “A to B” and “B to C” can lead to a “collective concurrence.”
- ▶ A majority of a legislative body is prohibited from meeting together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements.

# What is Not a Meeting?

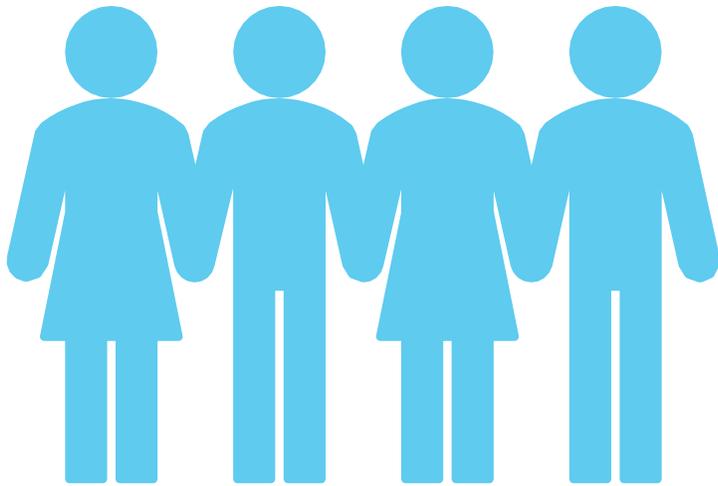


Individual contacts between a commission member and another person or commission member



This exception recognizes the right to confer with constituents, advocates, consultants, reporters, staff and colleagues

# What is Not a Meeting?

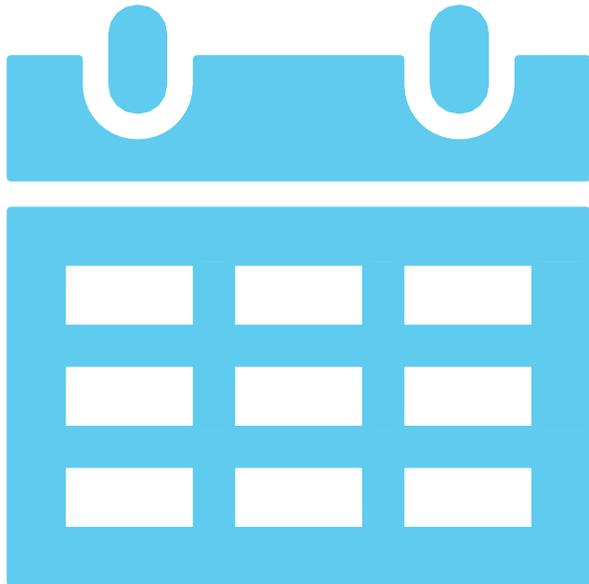


Majority of the members at a:

- ▶ Conference open to the public
- ▶ Local public meeting
- ▶ Open meeting of another body
- ▶ Social or ceremonial event

**But commissioners cannot discuss commission matters among themselves at these events**

# When Can Meetings Be Held?



- ▶ Regular meetings:
  - Agenda posted 72 hours before
- ▶ Special meetings:
  - Called by chair or majority of commission members, agenda posted 24 hours before

## Where Can Meetings Be Held?

Within the boundaries of the City,  
unless a specific exemption applies

Meetings must be accessible under the  
Americans with Disabilities Act of 1990

# Agenda Descriptions

Brief general description of each item

Include the date, time, and location of the meeting

Must inform public of scope of the commission's intended plans so public can decide whether to participate

Must be posted in a location "freely accessible" to members of the public



# Public Right to Comment

- ▶ Regular meeting
  - ▶ Public may comment on any matter within the commission's subject matter jurisdiction even if not on the agenda (non-agenda public comment)
  - ▶ Public also must be allowed to comment on agenda items
  - ▶ Reasonable regulations, including time limits, may be adopted

# Public Right to Attend



Public has a right to record the meeting with an audio or video tape recorder, or take photographs



Public has a right to review agendas and other writings distributed to a majority of the commission members



No secret ballots allowed

# Closed Sessions

- ▶ Take place in private without the attendance of the public or press
- ▶ Only permitted if expressly authorized by the Brown Act
- ▶ Examples:
  - ▶ Anticipated or pending litigation
  - ▶ Public employment
    - ▶ “Appointment, employment, evaluation of performance, discipline, or dismissal of public employee or to hear complaints or charges brought against the employee”
  - ▶ Public Security

# Closed Sessions

## Agendas and Reporting



Agenda must list the closed session category (e.g., pending litigation, etc., and the specific statute listed) with a brief description as permitted under law



Report out the actions taken and the vote



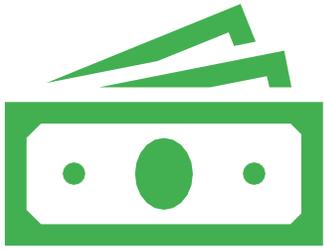
# Closed Sessions Confidentiality

There may be no unauthorized disclosure of confidential information acquired in a closed session by any person present

# Closed Session Authorized Attendees

- ▶ Differs based on the topic of the closed session
- ▶ Could include members of the body, agency counsel, management and support staff, and others needed for consideration of the subject matter of the closed session

# Violations of Brown Act



## ▶ Civil Actions

- ▶ Any interested party may begin action to invalidate certain actions that violated Brown Act. However, the commission will have an opportunity to cure and such alleged violation.
- ▶ Any interested party may also file a civil action to prevent future violations.
- ▶ Costs & attorney fees may be awarded to successful party.

## ▶ Criminal penalties

- ▶ With intent to deprive public of information.
- ▶ Punishable as a misdemeanor.

# Financial Disclosure

- ▶ State law requires public officials to disclose assets and income that may be materially affected by their official actions by filing a “Statement of Economic Interests” (also known as a “Form 700.”)
- ▶ City elected officials and board and commission members must file the Form 700, including boards receiving City funds.
- ▶ Form 700s may be completed online.
- ▶ They must be completed within 30 days of assuming office, and annually thereafter, covering the preceding calendar year.



# Required Disclosures

Required disclosures include:

Investments in business entities that do business in the jurisdiction (examples: stock holdings, businesses, partnerships);

Interests in real property in the jurisdiction, not including personal residences;

Sources of personal income, including gifts, loans and travel payments; and

Positions of management or employment with business entities that do business in the jurisdiction.

# Completing the Form



Name, mailing address, daytime phone number



Section 1: Name of Board or Commission



Section 2: Jurisdiction: City of Long Beach



Section 3: Type of Statement - Assuming Office, Annual, Leaving Office; applies to the preceding calendar year



Complete form and schedules and attach them to the cover page. If you have no reportable interests, check this box and file only the cover page.



Sign and verify the cover page. Forms 700s must be signed under penalty of perjury. File on time - forms are due on or before April 1 of each year.



Once filed, Form 700s are public documents.

# Schedules: Common reportable interests

Schedule A-1: Stocks, including those held in an IRA or 401K



Schedule A-2: Business entities, sole proprietorships, partnerships, LLCs, corporations and trusts.



Schedule B: Rental property in the jurisdiction



Schedule C: Non-governmental salaries of public official and spouse



Schedule D: Gifts from businesses (inside or outside the jurisdiction)



# Questions

- ▶ Questions relating to the filing of the Form 700 should be directed to the Office of the City Clerk.
- ▶ Questions of a legal nature may be directed to the City Attorney's Office.
- ▶ You may also contact the Fair Political Practices Commission's toll-free help line at 866-275-3772, or through the FPPC's website at [www.fppc.ca.gov](http://www.fppc.ca.gov).