Ralph M. Brown Act & Ethics Overview

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DISCLAIMER

This presentation is designed to give you an overview of the Brown Act and should be understood as a **general guide**.

This presentation is not and **should not be considered legal advice**.

City officials with questions about specific situations should **contact the City Attorney's Office**. All others should consult with their own attorneys.

OVERVIEW OF TRAINING

A. THE RALPH M. BROWN ACT (BROWN ACT)

1. Background
2. Meetings – Definitions and Conduct
3. Meeting Requirements
4. Enforcement

B. ETHICAL CONSIDERATIONS

1. Conflicts
2. Recusal

The Brown Act

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BACKGROUND

WHAT IS THE BROWN ACT?

- The Brown Act is a **state law enacted in 1953** establishing a **procedural framework** for members of local governmental decision-making bodies to **openly** meet, debate, and act.

- The Act is designed to ensure the public is **informed** about the views, discussions, and actions of public officials (this includes YOU as a Commission member!)

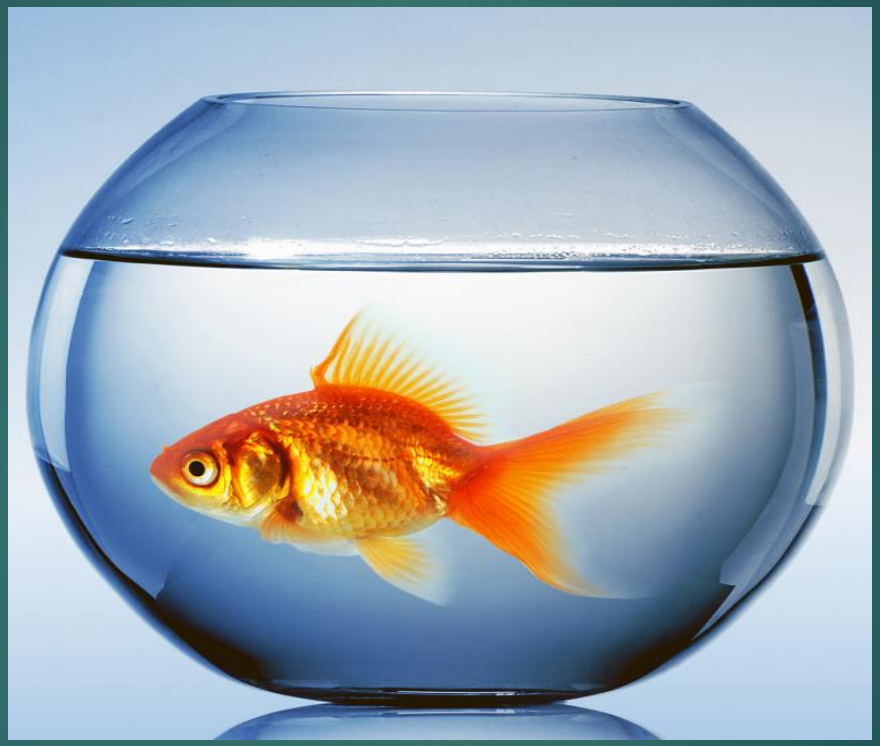
- It governs *MEETINGS* of *LEGISLATIVE BODIES*.

PURPOSE OF THE BROWN ACT

"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for the people to know."

(Gov. Code § 54950.)

PURPOSE OF THE BROWN ACT



To promote **trustworthiness** and **responsibility**.

WHO IS SUBJECT TO THE ACT?

- "Legislative bodies" includes:
  - Fresno City Council
  - Advisory and standing committees created by City Council, and all boards, commissions, and committees created by the City Charter, ordinances, resolutions, state law or federal law.
- **NOTE:** Individuals are subject to the Brown Act *upon appointment or election* even if they have not yet formally assumed office.

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MEETINGS

WHAT IS A MEETING?

MEETING:

- Any congregation;
- Of a majority of the members of a legislative body (or quorum if less than majority);
- At the same time and place;
- To hear, discuss, or deliberate upon;
- Any item that is within the subject matter jurisdiction of the legislative body.

What *is* the subject matter jurisdiction of the CFACA?

- The Purpose of the Commission is to explore and identify ways to expand *access to childcare* through public policy and make recommendations to the City Council related to improving access to childcare, with a first report to Council no later than six months from the date of adoption of the implementing resolution (June 8, 2026).

  (Resolution 2026-128, emphasis added.)

PROHIBITED "MEETINGS"

GENERAL RULE: Avoid a quorum communicating about anything within the subject matter of the Commission outside a noticed meeting.

- **In person** – Majority of commissioners together at once *or* serial communications via "hub and spoke" or "chain" communications connecting Commissioners
- **E-mails** (avoid reply-all)
- **Texts** (avoid groups texts and watch for serial meetings)
- **Social Media interactions** (special rules: replying/emoji icons to **one** other member is a Brown Act violation)

EXCEPTIONS TO MEETING PROHIBITIONS

- **Social and educational gatherings** (majority+ okay, but members must not discuss matters within jurisdiction of the body)
- **Closed sessions** when expressly authorized by law in limited situations (not typically undertaken by boards and commissions)

PERMISSIBLE COMMUNICATIONS

- Attorney-client communications
- "One-way" communication by staff to individual committee members
- Individual contact by officials with staff or a colleague (watch for serial communications).

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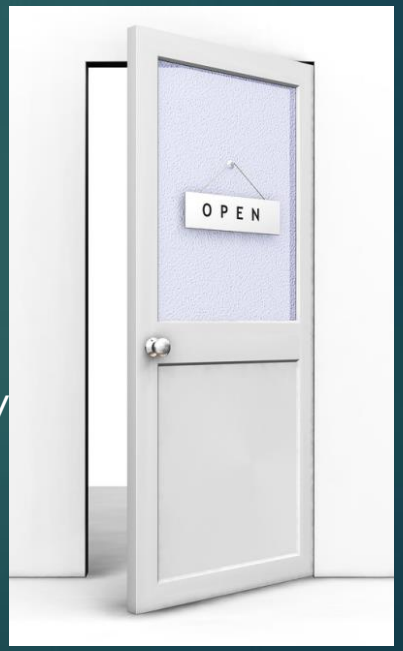
MEETING REQUIREMENTS

MEETINGS MUST BE PUBLIC

- Must be **ACCESSIBLE** to the public:
  - Held within the City
  - ADA accessible
  - Cannot require sign in
- Must **INVOLVE** the public:
  - Must allow public comment
  - Cannot prohibit criticism of the City
  - NOTE: Public comment time may be reasonably limited



AGENDA REQUIREMENTS

- The agenda informs the public of the time and issues to be addressed by public bodies, including
  - Time of meeting
  - Brief description of every item to be discussed
  - Time for Public Comment
- Agendas provide the public with ability to monito and participate in governmental decisions.
- Items not on agenda may not be discussed substantively or acted upon; can place matters that arise on agenda of a future meeting.
  - Caution: ungendized discussions often arise with public commenters bringing up relevant issues or questions, or through conversation on the dais

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ENFORCEMENT

CONSEQUENCES

Members of the Public may bring suit for violations.

Violations of the Brown Act may result in:

- Commission decisions may be null and void.
- Criminal sanctions for intentional violations (up to 6 months in jail/$1,000 fine).
- Injunction to prevent future violations.
- Attorney fees to prevailing plaintiff.

BROWN ACT: TAKE-AWAYS

- As a public official you are a representative of the People.
- The People have entrusted you to manage governmental affairs in an **accessible** and **transparent** manner.
- The Brown Act provides the statutory framework to accomplish the above.

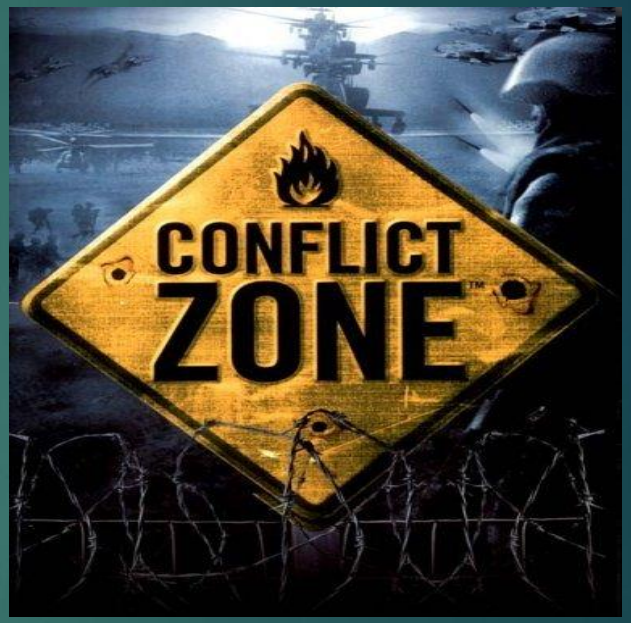
ETHICAL CONSIDERATIONS

COMMON LAW CONFLICTS OF INTEREST

- Based on *any* personal conflict, not just financial, preventing you from being an unbiased decisionmaker.
- Avoiding the "appearance of impropriety."
- Law: decisionmakers may not be tempted by personal or financial interest (may not "serve two masters").
- Disqualification required even if no conflict under state law.

IF YOU NEED TO RECUSE. . .

- Disclose why at an open meeting immediately before agenda item is considered
- Recuse from vote, *and*
- Leave the room while item considered (unless an uncontested consent calendar item)



QUESTIONS

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THANK YOU

This presentation is provided for general information only and is not offered or intended as legal advice. Readers should seek the advice of an attorney when confronted with legal issues and attorneys should perform an independent evaluation of the issues raised in these materials.