(Government Code §§54950 – 54963)

General Rule

- Provides legal minimums for transparency in decision-making

- Decision-making bodies must conduct business in open and in public meeting to ensure that the public is fully informed about local decisions

The Act Applies to Legislative Bodies of Local Agencies

Governing bodies-Board of Supervisors/City Council

Subsidiary bodies-commissions, committees created by charter, ordinance, resolution or formal action of a legislative body

WHAT IS A MEETING?

- A meeting is any situation involving a **majority** of a **decision-making body** in which business is transacted or discussed.
  - Does not require that action be taken
  - Majority of governing body cannot talk privately about an issue before the body no matter how the conversation occurs, whether by
    - telephone,
    - e-mail or
    - at a local coffee shop

Examples Of Meetings

- Formal meetings
- Collective briefings
- Retreats
- Site tours
- Meal gatherings during a formal meeting

Unlawful Meetings

- Pre-meetings
- Post-meetings
- Serial meetings

Serial Meetings Prohibited

- Serial meetings are prohibited
- Serial meeting is a series of meetings conducted through direct communications, intermediaries or technological devices **to develop a concurrence as to action to be taken**.
- Hub and spoke-A to B, A to C and A to D
- Sequential-A to B, B to C, C to D
- Simultaneous-A,B,C and D have joint conversation by phone or other means

How Do Serial Meetings Occur?

- Technology
  - Phone
  - Fax
  - E-mail: Beware of e-mail exchanges
- Human intermediaries

Collective Concurrence

- Substantive conversations
- Facilitating agreement or compromise
- Advancing a motion or resolution
- Debating

Serial Meetings: Practice Tips

Avoid substantive communications (directly or through others) with other members re items that are on an agenda or likely to be placed on a future agenda

Discussing procedural issues (time, date and order of matters on an agenda) is not prohibited. But do not discuss substantive communications

Staff briefings are permissible to answer questions/provide information to members if staff does not communicate the comments of members to other members of the legislative body

Permissible Gatherings

- Not every gathering of governing body members amounts to a violation
- Attendance at an educational conference or a social event is not a violation if a majority of the governing body does not discuss business at the event.

Types of Meetings

- Regular meetings-time and place established by ordinance, resolution or bylaws
- Special meetings-called 24 hours before meeting by the presiding officer or a majority of the board/legislative body
- Emergency meetings-crippling activity, work stoppage or other activity that severely impairs public health/safety-1 hour notice

Basic Rights of the Public

- To receive agenda materials
- To notice of meetings
- To attend meetings
- To record meetings
- To comment at meetings
  - Items on the agenda
  - Non-agenda matters

Access to Written Materials

- Agenda and any written materials related to items on agenda that are distributed to a member are public records
  - Emails or other written material relating to an agenda item that is sent by staff directly to a member must be provided to all members
  - Draft staff reports that are provided to individual members for comment/input must be provided to others
  - “On the agenda” includes items not only on upcoming agenda but items which are reasonably foreseeable to be on any future agenda
  - Draft staff reports provided to individual members for comment must be provided to other members.

- Documents provided less than 72 hours before meeting must be made available to the public at the same time as provided to majority of members

- Documents provided by others (public) must be made available promptly after the meeting

Agenda Requirements

- Agenda must contain a brief description of each item of business to be transacted or discussed
- Closed session must be on the agenda
- Must include time for public comment before or during agenda item

Right to Attend Meeting

- Accessible to disabled persons
- No precondition to attend
- If sign-in sheet, must clearly state that it is optional

Conducting Meeting

- Must permit audio/videotape recording by public and media unless disrupts meeting
- No secret ballots
- No mandatory sign-in
- May use teleconferences for public comment

Right to Comment

- On each agenda item
  - Before conclusion of consideration of item (if discussion item) or before action taken (if action item)
- On any matter within the body's jurisdiction that is not an agenda item
  - May schedule for any time in meeting
  - Members may not discuss or respond substantively

Limits on Public Comment

- May limit amount of time for each item
- Reasonable limit on total public comment time on an item
- No right to disrupt
- No right to a response from body or its members

Consequences of Brown Act Violation

- Civil action
  - Injunction against violation
  - Decision voidable (right to cure)
  - Attorneys fees and costs
- Criminal sanctions
  - Misdemeanor