

GOVERNMENT TRANSPARENCY



The Ralph M. Brown Act

Presented by:

The Office of County Counsel



The Brown Act

Sunshine Law

Open Meetings Law

Preamble & Purpose



“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 them to know.** The people insist on remaining informed so that they may retain control over the instruments they have created.”

Preamble & Intent



“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. **It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.**”

APPLIES TO:



Local Legislative Bodies:

- ❧ Boards of Supervisors
- ❧ City Councils
- ❧ School Boards

Groups Created by the Board:

- ❧ Commissions
 - Task Force
 - Blue Ribbon
 - Working Group
- ❧ Committees
- ❧ Councils

APPLIES WHEN:



There is a gathering of a **majority (or quorum)** of the members of the legislative body to:

1. HEAR

Listening to staff reports or watching a movie!

2. DISCUSS

Does not require any action be taken.

3. DELIBERATE

Making decisions, taking action.

on any item of business that is within the subject matter jurisdiction of the body.

Exceptions



- ❧ The Brown Act does not apply to meetings of employees of public agencies (e.g. staff meetings).
- ❧ Communications, particularly e-mails, should be limited to a single member.

Exceptions



- ❧ Conferences and similar gatherings which are open to the public.
- ❧ Open and public meetings held by another person or organization.
- ❧ Open and noticed meetings of another legislative body.
- ❧ Purely social or ceremonial occasions.

**PROVIDED THAT MAJORITY MEMBERS DO NOT
DISCUSS BUSINESS AMONG THEMSELVES**

SUBSIDIARY BODIES

Standing Committee

- Less than a quorum of members
- Includes other individuals not on the legislative body
- Advisory or Decision-making
- Continuing jurisdiction over a particular subject matter
- Fixed meeting schedule

BROWN ACT APPLIES

Ad-Hoc Committee

- Less than a quorum of members
- Comprised solely of less than a quorum of the members
- Advisory only
- Short-term
- No fixed meeting schedule

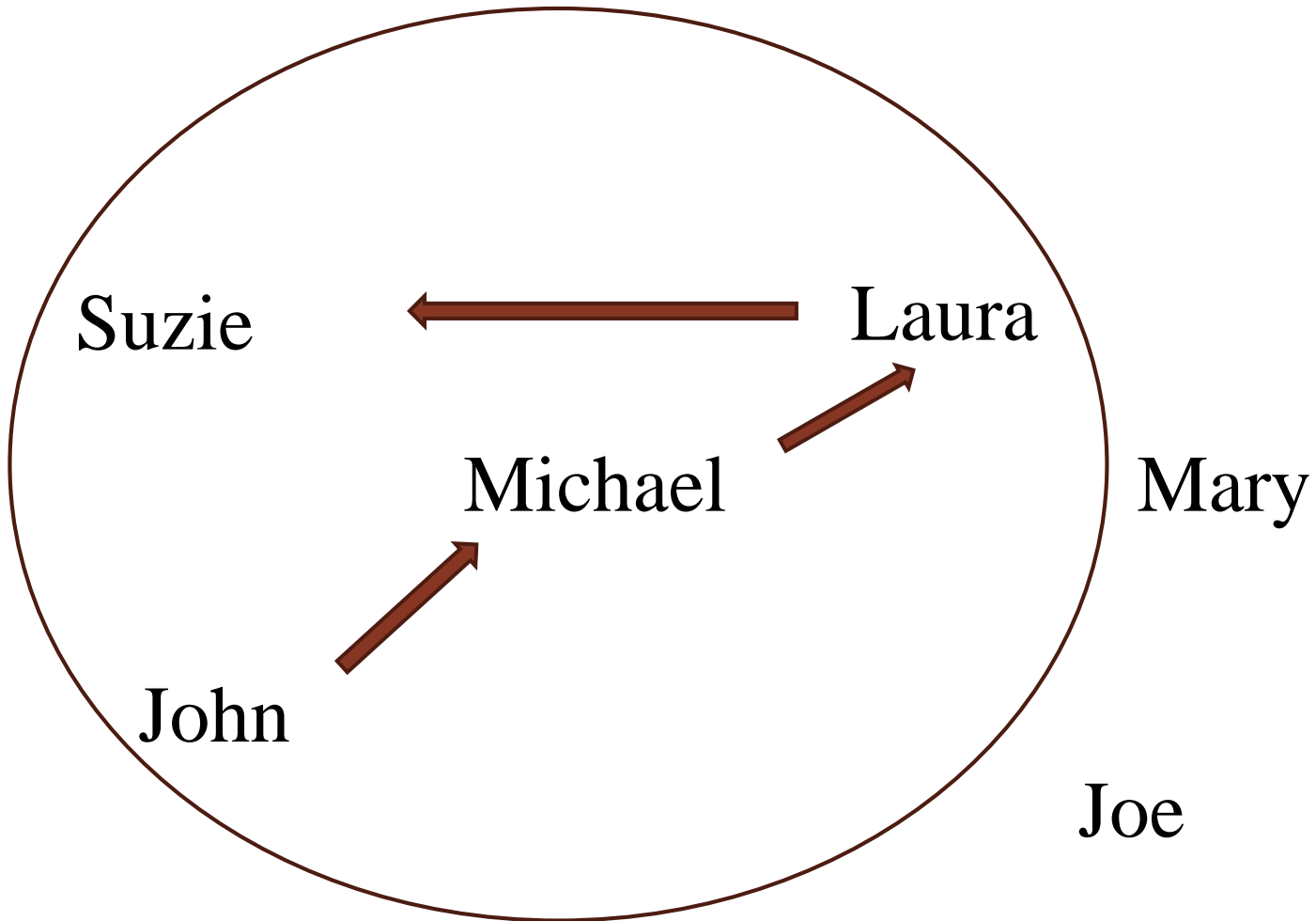
BROWN ACT DOES NOT APPLY

CAUTION: Serial Meetings



⌘ A serial meeting is typically a series of communications (face-to-face/telephone/e-mail), each of which involves less than a quorum of the body, but which taken as a whole involves a majority of the body's members

Example



Teleconference Meeting



- ☞ At least a quorum of the legislative body must participate from locations within the local agency's jurisdiction.
- ☞ An agenda must be posted at each location.
- ☞ The address of each location must be listed in the notice and agenda, including a room number, if applicable.
- ☞ Each location must be fully accessible to the public.
- ☞ Each location must be ADA-compliant.
- ☞ The public's right to testify at each location must be ensured.
- ☞ All votes taken must be conducted by roll call.

Meetings



☞ Regular Meeting

Agenda must be posted **72 hours** in advance.

☞ Special Meeting

Agenda must be posted **24 hours** in advance.

Website Posting Requirement

New requirements for posting agendas online took effect on January 1, 2019.

☞ Applies to:

- Governing bodies of local agencies
- Bodies created by federal or state statute; AND
- Local bodies created by charter, ordinance, or other formal action of the legislative body ONLY IF:
 - Its members are compensated for their appearance; AND
 - If one or more members are also members of the governing body or local body created by federal or state statute.

The Agenda



- ❧ Agenda items must have enough detail to give the public a reasonable idea of what will be discussed and/or acted upon—*no guessing*.
- ❧ Example: “For discussion and action...”
- ❧ If it’s not on the agenda, it cannot be discussed!

Adding an Item to the Agenda



After the agenda is posted, an item may be added only if one of the following occurs:

Emergency – when prompt action is needed because of actual or threatened disruption of public facilities

Newly arising item

(after agenda posted, need to take immediate action.)

Public's Rights



Brown Act gives members of the public the right to:

- ❧ Not give their name as a condition precedent to attend.
- ❧ Record the meeting.
- ❧ Comment and Criticize.

Members of the public must be allowed to comment on:

- ❧ Any agenda item, before or during the consideration of the item; and
- ❧ On any matter within the Board's jurisdiction.

Public Comment



- ❧ Fair and reasonable rules may be adopted to assist the body in processing comments from the public.
 - ❧ Regulating time and manner, such as a reasonable time limit, is OK.
 - ❧ Regulating content is not OK.
 - ❧ At least twice the allotted time should be provided to a member of the public who utilizes a translator, unless simultaneous translation is utilized.

- ❧ Chair may clear room in the event of an actual public disruption and proceed with the press present.

Public's Rights to Documents

Public can make standing request for copies of agenda materials:

- ❧ Request must be made in writing
- ❧ Request is effective for one year
- ❧ Subject to fees for copying and postage
- ❧ Failure to send packet can invalidate action

Meeting in Closed Session



- ☞ Meeting in closed session is allowed **only** for specific matters as expressly authorized by statute.
- ☞ Closed session items must be described on the agenda.
- ☞ Special announcements must be made before and after the body meets in closed session.

Closed Session Topics



Personnel matters

Must have legal authority to appoint/terminate.

Litigation: Anticipated, pending, or initiation

Must have legal authority to direct the course of the litigation.

Labor negotiations

Must have legal authority to negotiate

Real property negotiations

Must have legal authority to negotiate.

Public security threat

Must have legal authority to determine security solutions.

Penalties and Remedies



❧ Criminal Penalties

❧ Knowing violations are a misdemeanor.

❧ Civil Remedies

❧ Any interested person may bring a lawsuit.

❧ Body has chance to cure and correct.

❧ Certain illegal action may be voided.

❧ Costs and attorney fees awarded.