

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER



DATE: June 14, 2023

AGENDA ITEM

2

JUNE 15, 2023

**AB 1234 ETHICS TRAINING: UNDERSTANDING
PUBLIC SERVICE ETHICS, LAWS & PRINCIPLES**

ITEM

Receive training from Richards, Watson & Gershon [RECOMMEND RECEIVE ETHICS TRAINING]

BACKGROUND

Ethics training is required once every two years for the Board of Directors.

FISCAL IMPACT

None.

STRATEGIC PLAN

Not applicable.

RECOMMENDATION

It is recommended that Board receive the Ethics Training.

ATTACHMENT

- A. Presentation on AB 1234 Understanding Public Service Ethics, Laws & Principles



Understanding Public Service Ethics, Laws & Principles

AB 1234 Ethics Training

June 15, 2023

Nipomo Community Services District

Presented by: Craig A. Steele

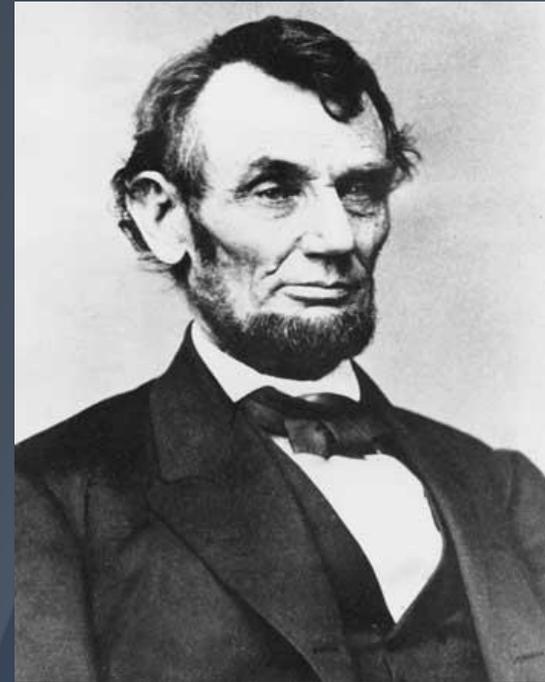
The Typical Reaction to this Topic



AB 1234 Training: Principles of Ethics and the Law in Public Service

“Nearly all men can stand adversity, but if you want to test a man’s character, give him power.”

— *Abraham Lincoln*



Thoughts About Ethics in Government



- “I don't like people who are in politics for themselves and not for others. You want that, you can go into show business.”
- — Elvis Presley

Ethics Training: Principles of Ethics and the Law in Public Service

- **The goal of ethical conduct in government dates back to the beginning of democracy**
- **Oath of Office in ancient Athens taken by public officials:**
 - Promised to not engage in any act of dishonesty and to obey the City's laws
 - Pledged to make the City greater, better and more beautiful than it was when they took office
 - Reflected not only a commitment to not do bad acts, but also a promise to do good

The Relationship Between Ethics and the Law

- The law is the starting point for most ethical analyses
- The law is the floor for ethical conduct, not the ceiling
- Just because it's legal, doesn't mean the public will see it as being right
- Legal nuances are political losers

Why Are We Here?

- **Ethics laws consistently born from scandal**
- **AB 1234**
- **Enacted after investigative report by Sacramento Bee**
 - Water District officials misusing public resources
 - Use of agency credit card for personal purposes
 - Misreporting of income
 - Double-dipping on expense reimbursements



Principles of Ethics



- **“Make decisions on the merits, free from partiality, prejudice or conflicts of interest.”**
 - Bias rules
 - Conflict of interest rules
 - Due process requirements

Principles of Ethics

- **“Public office is a trust; use it only to advance public interests, not personal gain.”**
 - Conflict of interest laws
 - Anti-bribery laws

Principles of Ethics

- **“Conduct government openly, efficiently, equitably, and honorably so the public can make informed judgments and hold public officials accountable.”**
 - The Brown Act
 - Disclosure Requirements
 - Public Records Act



Principles of Ethics



- **“Honor and respect democratic principles; observe the letter and the spirit of the law.”**
 - Due process requirements
 - Public bidding laws

Principles of Ethics

- **“Safeguard public confidence in the integrity of government by avoiding appearances of impropriety and conduct unbecoming a public official.”**

- Source: Josephson Institute of Ethics

Steele's 3 Principles of Good Government

- Transparency is easier
- Process is important
- There is such a thing as bad publicity

Such as....

Los Angeles Times

CALIFORNIA

LOS ANGELES EDITION

Wednesday, July 30, 2003

02

latimes.com/california

THE RECALL CAMPAIGN

Divorced Pair Consider Races for Governor

Former Senate candidate Michael Huffington takes out papers. Arianna Huffington weighs a bid as fans on a Web site urge her to run.

By MATRA GOLD
Times Staff Writer

RELATED STORY
Politicks women Two members of Congress urge her to run for governor. **PH**

They amid the rebirth of California's swayed political season, one pair of possible candidates is replete. Gov. Gray Davis has emerged as especially intriguing political conservative Arianna Huffington and her ex-husband, Michael Huffington, a former congressman.

More than Davis himself revealed on the novelty of political bids by the candidate. Arianna Huffington, a former movie producer and her ex-husband, a former New York Governor Republican-backed, left-of-center independent.

"That'll be out of interesting," he said with a shrug.

Last week, Michael Huffington took out papers to run in the Oct. 7 recall election, a move that surprised many political strategists who have seen little of the former congressman since he spent \$25 million in a losing bid to oust U.S. Sen. Barack Peltola in 1994. On Tuesday, a spokesman said Huffington would not attend the event.

Although she said the recall about "a Republican power grab," Huffington said she could represent an alternative choice in an election that, so far, includes only conservatives and a Green Party leader among the major candidates.

"People are very frustrated with politics as usual," she said Tuesday from Aspen, Colo., where she was attending a conference sponsored by Politico magazine. "That opportunity when it presented by the vacuum in this election is really what I find very appealing.... The very fact that it's going to be elective presents an opportunity to run a populist campaign with a lot of grass roots support."

For now, her supporters are keeping their fingers crossed that her ex-husband



PLCA AGREEMENT: Daryl W. Sweeney and his wife, Betty, listen to his lawyer read a prepared statement after the mayor entered a guilty plea. Sweeney will remain free on bond until his sentencing in October. He faces about 18 years in prison.

Mayor Pleads Guilty in Carson Corruption Case

Daryl Sweeney admits conspiring to extort money from waste

his city contract and pledged to cooperate with federal prosecutors pending other political corruption reforms in Southern California.

Party.

Blumenthal said that Sweeney is already cooperating with prosecutors and that "we hope he will tell us everything that we need to know."

placed their guilt in me. I have faced you."

Dowsey became the sixth defendant, the second mayor

Why Should You Care?



Four Groups of Ethics Laws



1. Personal financial gain
2. Personal advantages and perks
3. Governmental transparency
4. Fair processes

Group 1: Personal Financial Gain

- **Political Reform Act**
 - Disclosure Requirements
 - Recusal (Abstention) Requirements
- **Government Code Section 1090**
 - Conflicts of interest in decisions involving contracts
- **Prospective Employment**

The Political Reform Act (PRA)

- Enacted in 1974
- Created the Fair Political Practices Commission (FPPC)



The Political Reform Act: Recusal (Abstention) Requirements

- “No public official . . . shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”
 - Political Reform Act, Government Code § 87100

Intent of Conflict of Interest Laws

- The law is aimed not just at actual misconduct, but at the perception of misconduct and temptation
- The PRA and the FPPC have had to draw lines as to what is and is not a conflict of interest
- Lines are not always intuitive or obvious
- Actions that seem “right” may still be illegal

The Political Reform Act: Disclosure of Economic Interests

- **Form 700 Statement of Economic Interests (SEI)**
 - Report your interests accurately
 - Penalties for late filing / failure to file
 - Accurate reporting prevents conflicts & increases public confidence
 - Failure to report an interest will almost always make the FPPC, public, and press more suspicious

The Political Reform Act: Disclosure of Economic Interests

■ Form 700 Statement of Economic Interests

- As a candidate for office, upon assuming office and annually
- Purpose – helps prevent conflicts by letting the public know your interests
- Disclose your economic interests:
 - Sources of income
 - Real property interests
 - Investments
 - Business entities that you own
 - Sources of gifts

The Political Reform Act: Disclosure of Economic Interests

- **Other types of disclosures:**
 - **As a candidate, report campaign contributions**
 - Various FPPC Reporting Forms (Form 410 and others)
 - **As an elected officeholder, report “Behested contributions”**
 - Contributions by a third party to a nonprofit at your request equaling or exceeding \$5,000 in a calendar year
 - Applies only when a single source contributes the \$5,000 (not multiple sources) to the nonprofit
 - FPPC Reporting Form 803

The Test

- **FPPC Basic Test for Conflicts:**
 - Is it reasonably foreseeable
 - that a governmental decision
 - will have a material financial effect
 - on any of your financial interests
 - distinguishable from the public generally?

Is a Governmental Decision Involved?

- Is the public official making, participating in the making, or using or attempting to use his or her official position to influence a governmental decision?
- **“Governmental decision”**
 - Votes: motion, resolution, or ordinance
 - Deliberations
 - Makes appointments
 - Commits agency to a course of action
 - Enters into a contract
 - Determines not to act

Is a Governmental Decision Involved?

- **“Participates in making” a decision**
 - Acts within authority of his/her office or position and advises or makes recommendations to decision-maker
 - Negotiates, without significant substantive review, with third party regarding governmental decision
- **“Attempts to use an official position to influence a decision”**
 - Contacts or appears before or otherwise attempts to influence any member, officer, employee or consultant of the agency, or
 - Advocates on behalf of his/her agency to another governmental agency

What are your Economic Interests?



- Real property interests worth at least \$2,000
- Sources of income of \$500 or more in the last 12 months
 - Includes non-profit entities
- Investments worth \$2,000 or more
- Business interests
- Gifts of \$590 from a single source over the last 12 months

What are your Economic Interests?



- **Real property interests worth at least \$2,000**
 - Owned by you
 - Owned by you and your spouse together
 - Owned by your spouse separately
 - Your dependent child's property
 - Your interest as a tenant in real property (except month-to-month)

Your Sources of Income

- Sources of income of \$500 or more in the last 12 months
 - Your own income such as salary from a private employer
 - Promised income
 - Dependent child's income
 - Loans
 - Spouse / partner income
 - Commission income



Investments and Business Interests

■ Investments

- Investments worth \$2,000 or more
- Mutual Fund exception

■ Business Interests

- Management or employment
- “Related” business entities
- Property interests of businesses



Sources of Gifts



■ Donors of Gifts

- Aggregating \$590 from a single source in a 12-month period
- Cash, presents
- Meals, food and drink
- Entertainment
- Travel and lodging

Much more about gifts coming up...

You have an economic interest in your "personal finances"

■ Personal Finances

- Your personal expenses, assets or liabilities
- Will the decision cause you, your spouse or your dependent children to receive a measurable financial benefit or loss?



Identifying a Conflict

- **4-Step Test for Conflicts of Interest:**

1. Will the governmental decision result in a “reasonably foreseeable” financial effect on one of your financial interests?
2. If yes, is the effect on that interest “material”?
3. If the effect is material, is the effect the same as effects on the “public generally”?
4. If the effect is material and no exceptions apply, then you may not make, participate in, or use your official position to influence that governmental decision

Identifying a Conflict

Bottom line:



If you are considering a “materiality” question, it is time to ask for legal assistance

If You Are Disqualified

1. Don't discuss with or influence staff or colleagues
2. Identify nature of your conflict at meeting
3. Leave chambers after stating abstention (except for items on consent calendar)
4. "Personal interests"

Note: You cannot avoid disclosure by leaving chambers



PRA Penalties



- **Invalidation of decision**
- **Misdemeanor**
 - could result in loss of office
- **Fines**
 - \$5,000 to \$10,000 per violation
- **Attorney's fees**
 - yours and others
- **Embarrassment**
 - personal / political

Getting Help

- Talk to your legal counsel
- Seek advice from the FPPC
 - 1-866-ASK-FPPC
 - Request a formal advice letter, if time permits
- “If in doubt, sit it out.”

Government Code Section 1090

- A public official may not “make” a contract in which they are “financially interested”



Government Code Section 1090

- **Officer or employee of a district or other local entity**
- **Financial interest or that of your spouse in a contract**
 - Direct contractual interest
 - Indirect benefit from the making of a contract
- **Contract made by the official or body of which you are a member**
 - Broadly interpreted to include negotiations, discussions, design, planning, etc.

Government Code Section 1090

- If you have or may have a financial interest in contract, contact your legal counsel immediately
- Cannot un-ring the bell
- In many cases, abstention doesn't help.
- There are some exceptions that are complicated and very limited.

Section 1090 Penalties

■ Severe Penalties

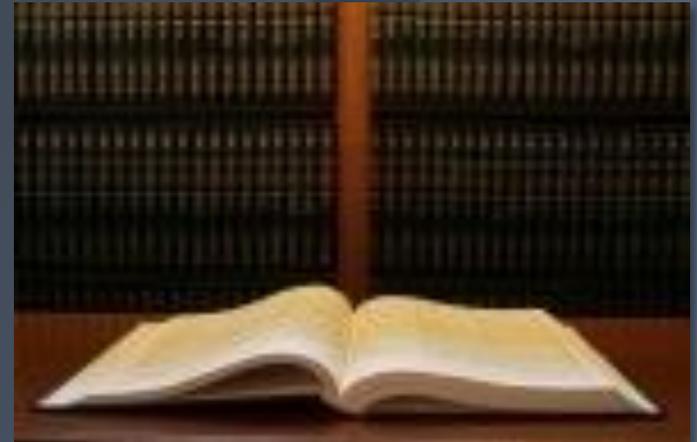
- Contracts are not just “voidable,” but void
- May have to refund money
- Willful violation is a felony
- Fines (up to \$1,000) or imprisonment
- Prohibition against holding public office
- Usual tool of the DA to prosecute for corruption



Section 1090 Penalties

■ Defenses that don't work

- Contract was fair, just and equitable to all parties
- Legal counsel said it was okay to participate
- I abstained from the decision.



Conflicts in Decisions Affecting Prospective Employer

- **This preclusion commences when either:**
 - you have an interview with an entity for an employment position; or
 - you get an offer or employment from an entity
- **Exception:**
 - does not apply if you are seeking employment with a local, state or federal governmental entity

- FPPC Regulation § 18747



Gifts & Perks

- **Principles:**

- Don't use your office for personal gain
- Be mindful of perks given because of your office or role
- Perks can create appearance of bias



The Obvious: Do Not Take Bribes

- Do not solicit or accept contributions, things of value or payments in exchange for votes or other official action



Gifts Don't Always Have Bows

- **Meals, food and drink** (including receptions)
- **Entertainment** (concerts and sporting)
- **Raffles**
- **Travel and lodging**
- **Tickets**



What is a gift?

- A gift is anything of **value** for which the recipient **did not** provide payment or services of **equal or greater value** to the donor

Gift Rules Apply to...

- Elected officers of a local government agency
- Chief Executive (or other official who manages public investments)
- Candidates for any of these offices
- Anyone else listed in the local conflict of interest code
- Consultants

Gift Limit

- **Report:**

- All gifts worth \$50 or more
- Can be several gifts from same source given within one calendar year

- **Do not accept:**

- Gifts from a single person or entity worth more \$590 or more
- Several gifts given in same calendar year count

- **This limit is raised every odd-numbered year to account for inflation**

Gift Exceptions: Relationships



- Existing personal or business relationships
- Long term relationships
- Family relationships
- Bona fide dating relationships
- Roughly equivalent gift exchange (except lobbyists)

Gift Exceptions: to & from the District

- Payments made to the District
- District-provided tickets or passes
- Employee raffle or gift exchange
- Gifts from public agencies to agency officials
- Group gifts



Other Exceptions

- Home hospitality
- Contest prizes
- Awards or trophies
- Wedding reception food, drink, favors
- Disaster assistance
- Emergency leave credits
- Bereavement offerings
- Inheritance
- Acts of neighborliness or human compassion
- Informational materials at conferences, etc.
- Free admission to conferences
- Unused tickets or passes
- Tickets to non-profit or political fundraiser

Returned or Donated Gifts

- **A gift is not deemed “accepted” or “received” if, within 30 days after receipt:**
 - the gift is not used and is returned to donor;
 - the donor is reimbursed; or
 - the gift is donated to charitable organization or government agency without claiming a tax deduction

Disclose or Refuse

Disclose

- \$50 or more
- Track
- Fair market value
- Gifts to someone else that benefit you

Refuse

- Refuse (must if > \$590)
- Return
- Donate

Honoraria

- **Honorarium = a payment made in consideration for...**
 - giving a speech,
 - publishing an article, or
 - attending a conference, meeting, event, etc.
- **As a public official, you cannot accept honoraria**
- **Some exceptions apply**



Loan Exceptions

- **You usually don't need to worry about:**
 - Your mortgage (or other loans obtained from banks or financial institutions)
 - Your credit cards
 - Loans from family members



No Free or Discounted Transportation

- **No free travel from transportation companies**
 - Cal. Const. art. XII § 7
- **Only applies to public officers**
- **Exclusion for frequent flyer mileage and discounts given unrelated to your official position**



Do Not Use Public Resources for Political or Personal Purposes

No Mass Mailings

No Personal Use of Staff

No Personal Purposes

No Campaign Use

Mass Mailing Rule

- **Newsletters or other mass mailings cannot be sent at public expense**
 - A mass mailing is: (a) the delivery of a tangible item, (b) that “features” an elected official, (c) at public expense, (d) in a quantity of 200 or more, (e) in a calendar month. (Government Code §§ 89001- 89003)
- ***Do not single out an elected official by photograph or signature***
- Websites are NOT a mass mailing because they are not a “tangible item”

No Campaign Use of City Resources or Staff

- **Cannot use district staff or resources to help a campaign for a ballot measure or a candidate**
 - Equipment – no use of copying machines, phones, computers, etc.
 - Office space – no free use of office space or meeting rooms to meet and plan campaign events
 - Staff assistance – no use of secretaries to, for example, prepare and send out letters supporting a candidate or ballot measure

Prohibition on Gifts of Public Funds

- A public agency cannot give away public funds or anything of value for free
 - There must be consideration (i.e., a contract)

OR

- The grant must serve a “public purpose” of the donating agency



Reimbursements

1. Adopt and follow reimbursement policy
2. Use expense form
3. Document expenses
4. Avoid using District credit cards if possible; never use a District credit card for personal charges

Penalties for the Misuse of Public Funds

- No reimbursement
- Restitution to the agency
- Up to \$5,000 per violation
- Own attorneys' fees (\$3,000-\$30,000)
- Others' attorneys' fees (for private actions to enforce law)
- Up to four years in jail
- Permanent disqualification from office



Group 3: Governmental Transparency

- **The Public Records Act**
- **The Brown Act**

The Public Records Act



- PRA affords any “person” the right to inspect and be provided a copy of any identifiable public record
- “Person” includes an individual or corporation and elected members of local agencies
- “Public record” is defined broadly

What is a Public Record?



- **“Public record”** defined as
 - Any writing
 - with information relating to the conduct of the public’s business
 - prepared, owned, used or retained by a state or local agency
 - regardless of physical form or characteristics

What is a Public Record?



- **“Writing” includes**
 - Handwritten or printed documents
 - Photos and videos
 - Voicemails
 - Drawings, plans, maps
 - **Emails, text messages, tweets, etc.**

Avoid Combining Public & Private



- **Personal or political business?**
 - Don't tack it onto an email about District's business
- **Email Threads**
 - Changing Topics? Create new email

Common Statutory Exemptions

- Preliminary drafts, notes or interagency or intra-agency memoranda not kept in ordinary course of business (balancing test)
- Personnel, medical or similar records
- Documents created in anticipation of, or during, litigation
- Personal information like SS#s, home address and telephone #
- Salary information IS subject to disclosure

Waiver of Exemptions

- **Maintain confidentiality of exempt public records**
- **Inadvertent disclosure of an exempt record does not waive the exemption**
 - Government Code Section 6254.5
- **Intentional, deliberate disclosure waives an exemption**

Ralph M. Brown Act



- "All **meetings** of the **legislative body** of a local agency shall be **open and public**, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."

Act Applies to “Legislative Bodies”

- **What is a “legislative body?”**

- Governing body of the district
- Subordinate boards & commissions created by formal action of the governing body
- Standing committees with regular meeting schedule and continuing subject matter jurisdiction

- **What is not a “legislative body?”**

- Advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body

What is a “meeting”?

■ Elements:

- Congregation of a majority
- Same time and location (including teleconference location)
- To hear, discuss, deliberate, or take action on any item
- Within subject matter jurisdiction



Serial Meetings Are Illegal

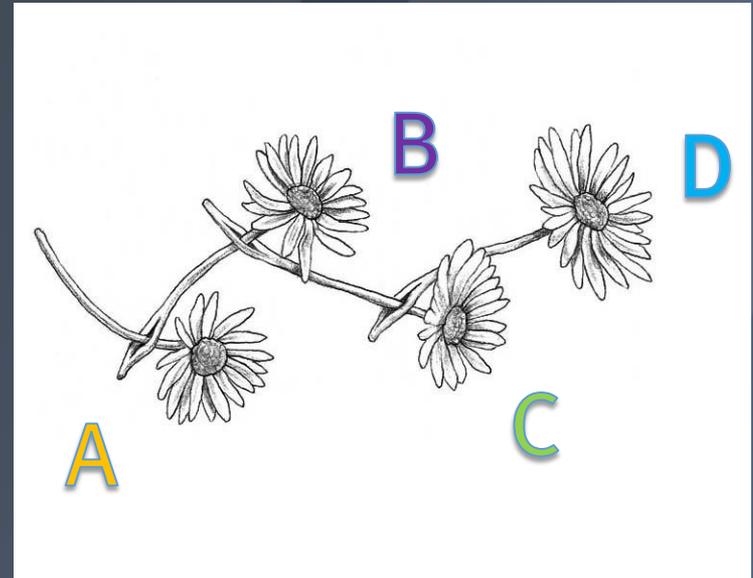
- **What is an illegal serial meeting?**
 - Series of direct or indirect communications (intermediaries/technology)
 - By a majority of the body
 - To discuss, deliberate, or take action on any item of business or potential business

2 Types of Illegal Serial Meetings

Hub & Spoke



Chain



Unintentional Serial Meetings



- **Serial meetings in the digital age**
 - Group e-mails and texts
 - Comment sections
 - Social Media
 - Twitter, Instagram, Facebook, etc. can result in inadvertent violations

Tips for Electronic Communication



- **DO NOT:**

- Communicate your position on a pending matter to other members
- Solicit responses from other members when forwarding information you receive
- **REPLY ALL**

Tips for Electronic Communication



- **DO:**
 - Use caution (“bcc”!) when emailing other members.
- ***Deliberations must occur publicly in a meeting. Not by text or on social media!***

Serial Meetings Are Illegal



- **Individual briefings are okay**
 - “Unidirectional”
 - Don’t describe views of any other members
 - Don’t ask about other member’s views

Internet-Based Social Media Platforms (Gov't Code 54952.2)

- **DO NOT:**

- Respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.
- **Applies to TWO members – majority not required.**
- Practice Tip: Don't respond to a fellow councilmembers posts on social media AT ALL



Internet-Based Social Media Platforms (Gov't Code 54952.2)

- **OKAY TO:**

- Answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body.



Meeting Exceptions

- **When is a meeting not a “meeting?”**
 - Individual contacts
 - Conferences and seminars
 - Community meetings
 - Another body of the agency when it is an open and noticed meeting of that body
 - Social or ceremonial events
 - Ad hoc committee meetings
 - Observation of standing committee meetings

Regular Meeting



- **Date, time, and location is set by resolution or ordinance**
 - Agenda must be posted 72 hours in advance
 - Brief description of items of business
 - Posted agenda must be freely accessible to public

Public Participation



- Not required to “register”
- Rules of decorum permitted
- Time limits okay
- Recording permitted
- Public agencies may not prohibit public criticism of the agency or the legislative body

Special Meeting

- **Called by presiding officer or majority of Council**
 - Notice must be posted 24 hours in advance, stating the time, place, and agenda
 - Notice must be received by each member and press unless waived
 - Consider only items on the agenda



Adjourned Meeting

- Regular or special meetings may be adjourned to specific time and place
- If no time stated, meeting is continued to the hour for regular meetings
- Less than a quorum may adjourn
- Secretary or Clerk may adjourn to stated time and place



Other Agenda Requirements



- Agendas must be publicly accessible and distributed in advance to those who request copies; on the website if there is one
- Teleconference location, if any, must be included on the agenda*
- No discussion or action on items not on the posted agenda
 - Absolute rule for special meetings
 - Exceptions for regular meetings

Agenda Requirements – Exceptions

- **Items not on the posted agenda can be discussed and acted upon IF:**
 - Item came to the agency's attention after the agenda was posted and
 - There's an immediate need to take action before the next meeting
 - Two-thirds vote required



Exceptions – Continued

- **Other exceptions**

- Brief response to public comments
- Questions for clarification / refer to staff
- Brief announcement or report on activities
- Request for future report
- Agree to place item on future agenda
- Emergency situation exists – requires a majority vote

Public Comments at Meetings



- **The public has a right to speak on:**
 - Any item within the subject matter jurisdiction of the body (regular meetings only)
 - A specific item of business on the agenda (any meeting)

First Amendment Considerations

- *Cannot* prohibit criticism
- Civil Code § 47 makes statements at a public meeting generally privileged
- Reasonable regulations of public comments allowed:
 - Time limits*
 - Speaker cards*
 - Rules of decorum
 - Recording permitted



Closed Sessions

- **Most common topics:**

- Personnel matters
- Labor negotiations
- Real property matters
- Pending, threatened, or contemplated litigation



Enforcement & Consequences

- **Types of enforcement actions:**

- 1. Civil action to invalidate a decision or action**

- District Attorney or any interested person
- Notice and opportunity to cure, with commitment to refrain from alleged violation
- If not cured and there is subsequent court action, challenger can recover attorneys' fees and costs

- 2. Criminal prosecution**

- Brought by the District Attorney
- There must have been an **action taken at a meeting** in violation of the Brown Act, **with intent** to deprive public of information
- Misdemeanor

Group 4: Fair Process Laws

**“Common Law”
Conflicts & Due
Process**

**Campaign
Contributions**

**Qualifications
for Office and
Incompatible
Offices**

**Competitive
Bidding**

The Due Process Clause

- “No person shall be ... deprived of life, liberty, or property, without due process of law”

U.S. Constitution amendment V

Due Process in Local Government

- **The Due Process Clause is implicated whenever a local agency conducts a public hearing:**
 - Rate setting
 - Annexation requests
 - License revocations
 - Terminating or disciplining certain employees

What does “Due Process” Mean?

- Reasonable **notice** &
- A reasonable **opportunity to be heard**
- Before an **impartial decisionmaker**



An Impartial Decisionmaker

- Pre-existing views on the general policy issues related to a matter do not create disqualifying bias
- Due process does not require that the decisionmaker be an “intellectual eunuch” – someone with no views or opinions at all
 - **Andrews v. Agricultural Labor Relations Board (1981)**

An Impartial Decisionmaker

- **Disqualifying bias requires:**
 1. Concrete proof of a specific prejudice against a person or project affected by the decision
 2. Bias which is sufficient to impair the decisionmaker's ability to decide the matter on appropriate grounds
 3. The bias matters to the decision.

Common Law Doctrine Against Conflicts of Interests

Law made by
court decisions

Applies when
public official is
tempted by
personal interests

Reduced
application of the
doctrine . . . but it
is not dead

Tips for Decisionmakers



- If you think you cannot be fair, don't participate
- Avoid statements before the close of a hearing that suggest your mind is made up
- Make your decision based on the evidence presented at the hearing – from staff, the parties, and the public – not beforehand

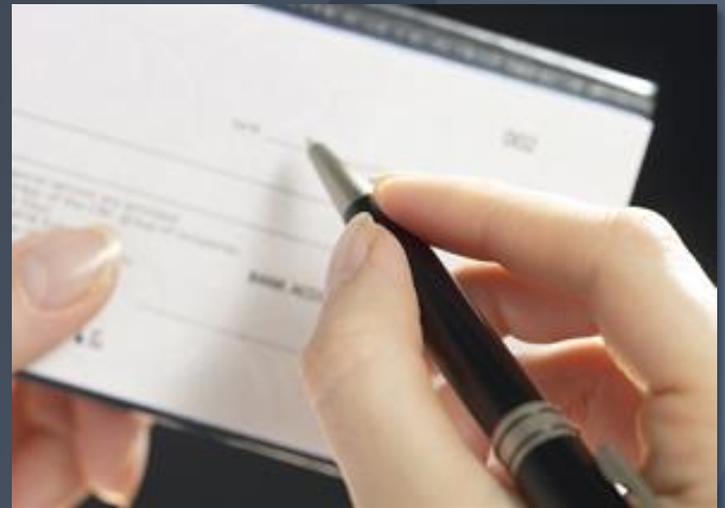
Tips for Decisionmakers



- If you make private site visits, don't make any commitments to applicants or neighbors
- Disclose at the hearing any "off-the-record" information you have obtained
- Fair hearing procedures prohibit receipt of information or comments via email or text during a meeting

Campaign Contributions

- **Generally no conflict of interest**
- **Special rule for appointed boards and commissions**
 - \$250 / 12 month / 3 month rule
 - Possible application to your other assignments.



Campaign Contributions

- You cannot solicit campaign contributions from other officers or employees of your agency – Government Code Section 3205
- Prohibition applies to direct or indirect solicitation of contributions (except as part of a larger mailer)
- Violation is a misdemeanor

Conditions to Holding Office: Residency within Jurisdiction

- An elected official must be an “elector” of the - entity
- An “elector” must be a U.S. citizen & resident of an election precinct
- Registered to vote in district
- Maintain principal residence (domicile) in district

Residency within Jurisdiction

- If during your term of office, you move your domicile to somewhere outside the District's limits, you cease to be an elector
- If you cease to be an elector, your office becomes vacant (Gov. Code Section 36502)



"Incompatible" Offices



- Cannot hold two incompatible offices!
- Applies to public offices, not employment
- Loss of first office upon acceptance of incompatible office

“Incompatible Offices”

■ Examples:

- City councilmember & school board member
- District Board member & fire chief
- Public utility district member & board of supervisors member
- Water replenishment district board member & and city councilmember

Competitive Bidding

- **Required by State Law**
- **Principles:**
 - Everyone has right to compete for agency's business
 - Competition produces the best price for taxpayers
 - Prevents favoritism, extravagance, fraud



Competitive Bidding



- **Contract goes to lowest responsive, responsible bidder**
- **Exceptions**
 - Emergencies
 - Small contracts
 - Financial, engineering, legal services
 - Professional services

Questions to Ask

- **What would the reasonable person think?**
 - My mom, for example
- **Are you comfortable with how your action will be reported in the press?**
- **Is this how you want to be remembered?**





Thank you!

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