

**CALIFORNIA AUTHORITY OF RACING FAIRS
Board of Directors & Live Racing Committee
Concurrent Meeting
Tuesday, January 28, 2025**

MINUTES

A concurrent meeting of the California Authority of Racing Fairs (CARF) Board of Directors and Live Racing Committee was held at 10:00 A.M., Tuesday, January 28, 2025. The meeting was held via teleconference originating at the CARF office, 1776 Tribute Road, Sacramento, CA 95815.

CARF Board Directors joining by conference call: Daniel Castillo, Dan Jacobs, Tom Keaney, Tom Martinez, Dana Stoehr and Kelly Violini.

CARF Live Racing Committee members joining by conference call: Christina Estrada, Greg Gomes, Moira Kenney and Tom Martinez.

Staff and Guests participating via conference call: Larry Swartzlander, Tom Doutrich, Heather Haviland, Juliana Gomes, Raechelle Gibbons, Ann Grotteit, Louie Brown, Cody Boyles, Michael Francesconi, Michael Flores, Matt Cranford, Angel Moore, Tiffany Loushin, Bill Patterson, Bill Nader, Jim Ahern, Stacey Lapham, Michael Ernst, Randy Malmgram, Marielena Trujillo, Duane Martin, Ellen Jackson, Teresa Fasolino and the following numbers: 916-591-8791, 707-798-9155, 408-483-4519, 650-218-0293.

Agenda Item 1 – Date, Time and Location of Next Meeting: To Be Determined.

Agenda Item 2 – Public Comment. Ms. Stoehr prefaced public comment with a summary regarding the history of modern-day racing in California and the steady decline of racetrack operators. The California fairs system has historically taken on the needs of their communities and will continue to in times of need. The CARF Board of Directors will continue to operate in transparency and honesty as they move forward.

No public comment.

Agenda Item 3 – Closed Session: Conference with Legal Counsel – Anticipated Litigation. Ms. Stoehr reported that the Board received an update and guidance regarding the status of anticipated litigation. No further action was taken.

Agenda Item 4 – Report, Discussion and Action, if any, on Development of 2025 CARF Budget. {ACTION} Mr. Keaney moved to approve moving the 2025 CARF Budget to the

finance committee for in-depth review. Mr. Martinez seconded. YES Vote: Mr. Martinez, Mr. Keaney, Mr. Castillo, Mr. Jacobs, Ms. Stoehr. ABSTAIN: Ms. Violini. Motion passes.

Agenda Item 5 – Report, Discussion and Action, if any, on CARF’s Ability to Pursue a 2025 Racing Application on behalf of its Membership. Mr. Jacobs moved to not apply for racing licenses on behalf of the CARF membership this next year. Mr. Castillo seconded. YES Vote: Ms. Violini, Mr. Martinez, Mr. Keaney, Mr. Castillo, Mr. Jacobs, Ms. Stoehr. Motion passes.

Respectfully submitted,
Juliana Gomes

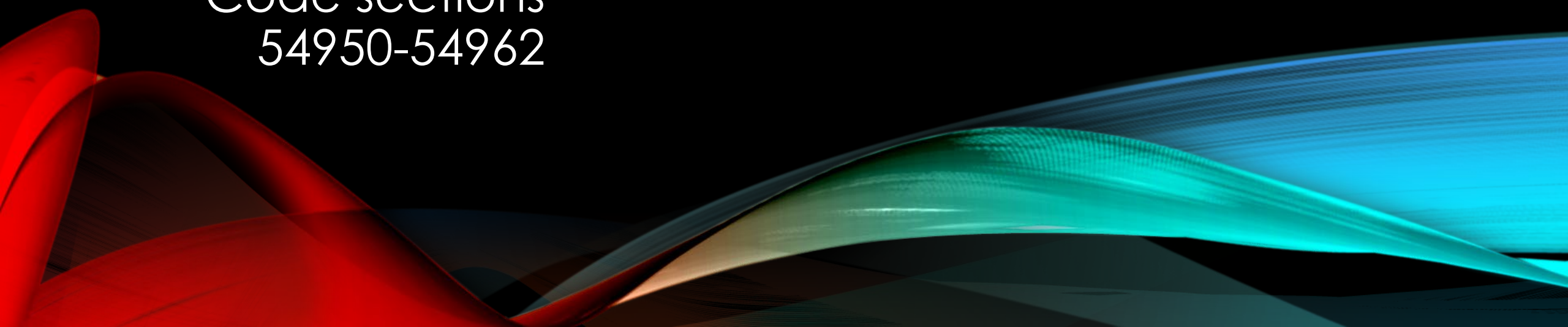


THE RALPH M. BROWN ACT

California's open
meeting law,
aka "sunshine
law"

Government
Code sections
54950-54962

WHAT IS THE BROWN ACT?



PURPOSE OF THE BROWN ACT



Ralph M. Brown, 1959

“ 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.”

California Government Code §54950

Requires local government to conduct its business at open and public meetings.

WHO MUST COMPLY?

- Legislative bodies
 - ✓ Governing body of a local agency
 - ✓ Advisory committees or decision-making commissions, committees, boards, or other bodies created by formal action of a legislative body (with exceptions)
 - ✓ Standing committees of legislative body with either (a) continuing subject matter jurisdiction or (b) a fixed meeting schedule set by formal action of the legislative body

WHAT IS NOT A LEGISLATIVE BODY?

- An *ad hoc*, advisory committee composed solely of less than a quorum of the legislative body.
 - ✓ “*Ad hoc*” means that it serves a limited or single purpose, is not perpetual and is dissolved once its specific task is completed.
 - ✓ Example: a committee composed of less than a quorum created to draft a new record retention policy.

WHEN DOES THE BROWN ACT APPLY?

MEETINGS!

- Congregation of a majority of the members of a legislative body
 - Same time and place (including by teleconference)
 - To hear, discuss, deliberate or take action
 - Agency business
- “Meeting” also includes deliberative/informational gatherings – not just where formal action is taken
- A “meeting” requires quorum to get started and stay in business

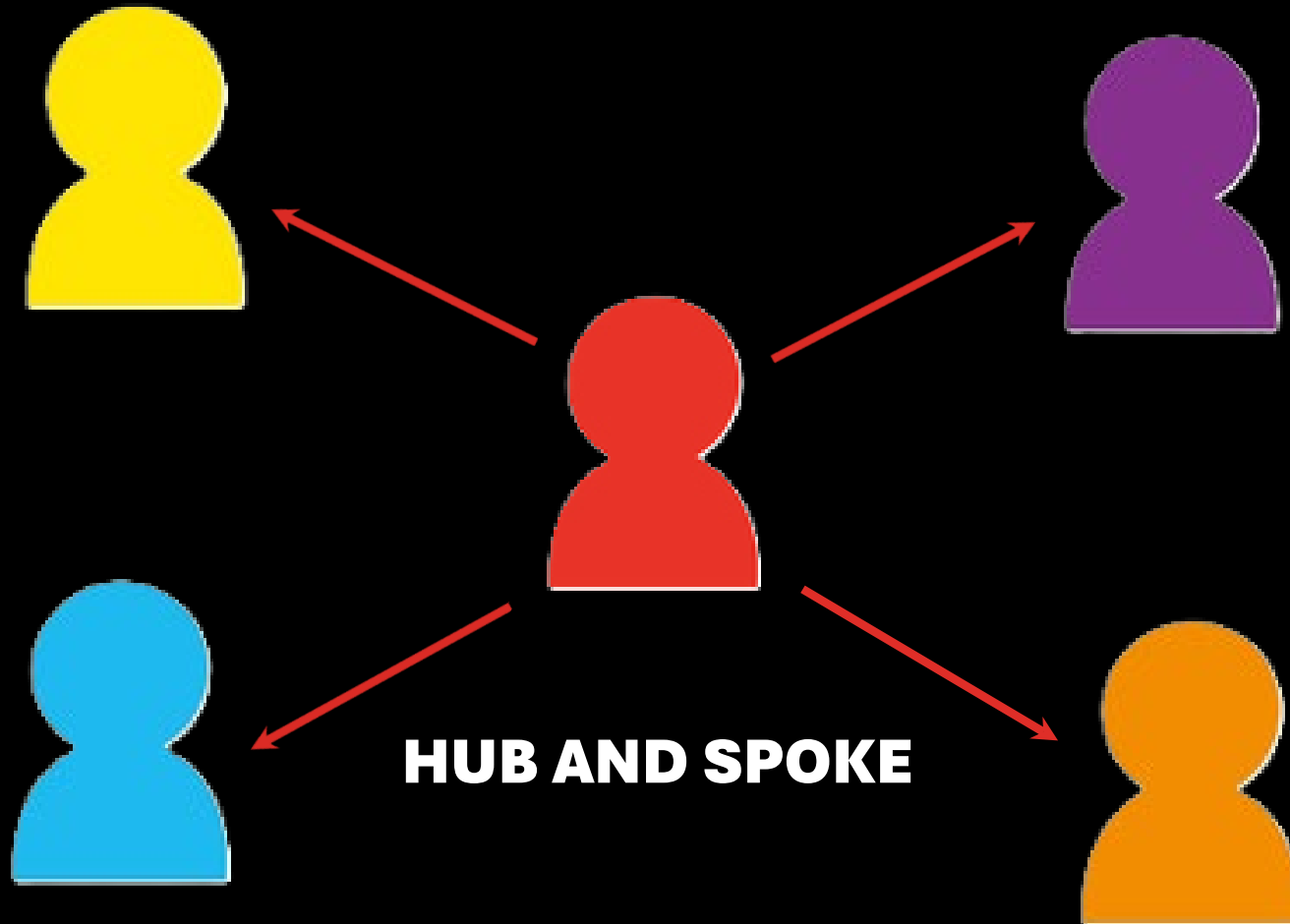
WHEN DOES THE BROWN ACT NOT APPLY?

- Individual contacts & conversations
- Communications with staff and employees
- Conferences open to the public (e.g., annual association conferences)
- Open and publicized community meetings (e.g., local service club)

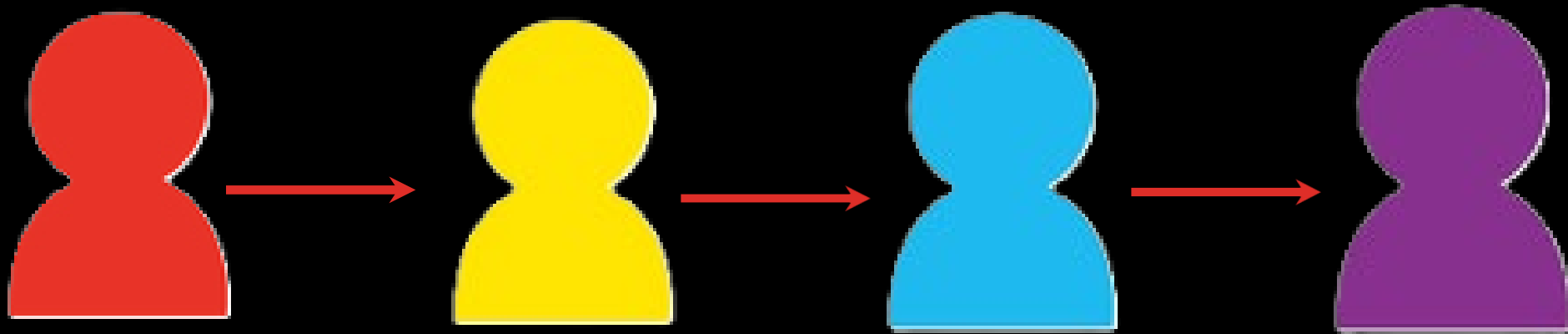
WHEN DOES THE BROWN ACT NOT APPLY?

- Other legislative bodies (e.g., members of city council attending meeting of planning commission)
- Social/ceremonial events (e.g. football games, wedding, retirement party, etc.)
- BUT.... DON'T DISCUSS AGENCY BUSINESS!

OOPS, WAS THAT A MEETING?!



OOPS, WAS THAT A MEETING?!



DAISY CHAIN

OOPS, WAS
THAT A
MEETING?!

Hub and Spoke

(i.e., Member A speaks to Members B, C, and D, and so on, outside of a Board meeting and reveals information about the other members' respective views.)

Daisy Chain

(i.e., Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on until a quorum and collective consensus have been established.)

BEWARE
OF EMAIL

OOPS, WAS THAT A MEETING?!

Collective briefings

- Members cannot meet with staff in advance of a meeting for a collective briefing

Retreats or workshops

- Brown Act will apply whether the focus is on long-term agency planning or team building and group dynamics

Informal gatherings

- Beware of post meeting gatherings

TYPES OF MEETINGS

REGULAR

- ✓ Must set regular time and place by formal action (e.g., ordinance, resolution, bylaws, etc.)

- ✓ 72 hours notice is required

TYPES OF MEETINGS

SPECIAL

Presiding officer (Chair) or a majority may call at any time

Requires 24 hours posted notice, written notice to each member and to local newspaper.

Notice must state time and place of meeting and all business to be discussed.

Business is limited to subjects listed on agenda – no general public comment on matters not on agenda.

New Restriction: No discussion of agency executive's compensation

TYPES OF MEETINGS

EMERGENCY

- Can hold when prompt action is needed (e.g., work stoppage, crippling disaster, or other activity that severely impairs public health or safety).
- Special meetings provisions apply, except only one hour notice required.
- Must notify interested media
- Minutes of the meeting, list of persons notified or attempted notified, copy of roll call vote and any actions taken must be posted for minimum of 10 days after meeting.

REQUIREMENTS FOR MEETINGS

AGENDA

- Except emergency meetings, all meetings must have an agenda posted in advance
 - ✓ Regular – 72 hours
 - ✓ Special – 24 hours

OPEN AND PUBLIC

- All persons must be permitted to attend
- No secret ballots

NO CONDITIONS

- May not require sign-in
- Cannot charge for attendance

REMOVING AN INDIVIDUAL

If an individual does not stop disrupting the meeting after being warned, can have them removed.

No need to warn first if they are threatening violence

“Disruptive behavior” is behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting.

CLEARING THE ROOM

- If a member or members of the public willfully disrupts the meeting and order cannot be restored by removing that person or those people, the Board may order the room cleared and continue the meeting.
- Members of the press must be allowed to stay.



REQUIREMENTS FOR MEETINGS (CONT'D)

ACCESSIBLE

- Must provide reasonable accommodations, cannot allow some members of public to attend and others not, can't hold in facility that prohibits attendance on discriminatory bases

AUDIO/VIDEO BROADCAST

- Must allow photos, audio/videotaping of the meeting (unless it is disruptive to the meeting)

VOTING

- Must report how each individual official votes on any action, and record the vote in the minutes

Written materials must be made available to the public when distributed to majority of the body...

REQUIREMENTS FOR MEETINGS (CONT'D)

72 hours in advance
at office (or posted
on the website –
rules apply)

After meeting if
prepared by others

At meeting if not
available prior

Exception...
privileged items

AGENDAS

- Must post in a location freely accessible to members of the public 24/7.
- Must state time and place of meeting and a “brief general description of each item of business to be transacted or discussed, including items to be discussed in closed session.”
- Agenda descriptions generally need not exceed 20 words.
- People should have enough information to decide whether they want to attend.
- Notices must be posted on agency’s website (prominently on home page or direct link)

AGENDAS

Must include language regarding how an individual with a disability may access the meeting and related materials.

Must include the address where non-confidential materials given to board members less than 72 hours prior to a regular meeting may be obtained. (And if Board materials are provided electronically, agenda must disclose website where materials may be located online).

CEQA: Agenda title should state if a CEQA decision will be made or considered (approval of a CEQA document, including CEQA exemption determinations)

WHAT ABOUT ITEMS NOT ON THE AGENDA?

NO ACTION CAN BE TAKEN...except

- Majority decides there is an emergency situation
- 2/3 of the members present (or all members if less than 2/3 are present) vote that immediate action is needed and the need came to board's attention after agenda was posted. (Regular meetings only)
- When an item appeared on the agenda of, and was continued from, a meeting held not more than 5 days earlier
- Members or staff may "briefly respond" to comments or questions from public

TELECONFERENCING

- “Teleconference” is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.”



TELECONFERENCING

- Can use to receive public comment, testimony, to deliberate or conduct closed session
- Quorum required to be in the jurisdiction
- Teleconference location must be available to the public
- Must identify teleconference location in meeting notice and agenda
- Agenda must be posted at each teleconference location
- Agenda must allow public to address the board at each teleconference location
- All votes must be by roll call



REMOTE APPEARANCES

Meeting Requirements

- A quorum must be at the SAME physical location. (Note difference – regular teleconference rules require only that a quorum is in the same jurisdiction.)
- Phone and Internet links must be provided for the public.
- Public must be able to comment in real time.
- If call-in or internet is disrupted during the meeting, meeting must be stopped until it is restored.

Member Requirements

- Must notify agency ASAP.
- Must state generally the need to appear remotely.
- Must appear by Audio AND Video
- Must disclose if other adults are in the room.
- “Just Cause” for 2 meetings per year. (childcare, caregiving, contagious illness, travel)
- “Emergency” for no more than 3 consecutive months or 20% of the regular meetings in a calendar year. (physical or family medical)

LOCATION OF MEETINGS

All meetings must be held within the territory where the agency has jurisdiction.



PUBLIC COMMENT

May comment on agenda items before or during consideration of the item

May comment on any matter within the subject matter jurisdiction (during regular meetings only)

Reasonable time limitations
Other regulations permitted but be consistent!

Board can respond to public comment but can take NO ACTION!

REMEMBER...



Board cannot prohibit public criticism, but there is no immunity for defamatory statements

CLOSED SESSION GENERAL PURPOSE

Generally used to avoid revealing confidential information that would prejudice legal or negotiating position of the body or compromise privacy interests

A red stamp reading "CONFIDENTIAL" is shown on a white background. The stamp is tilted diagonally from the bottom-left towards the top-right. The letters are in a bold, sans-serif font.

CLOSED SESSION RULES

If situation meets one of the specific exceptions to the open meeting rules, may hold in closed session



Not enough that it is sensitive, embarrassing or controversial



Meeting is either open or closed. Cannot invite selected members of public

CLOSED SESSIONS- AGENDAS AND REPORTS

Legal authority for closed session must be on the posted agenda with the same kind of brief description

Brown Act supplies a series of fill-in-the-blank samples that provide a safe harbor from legal attacks

Must make public announcement prior to closed session discussion (can just refer to agenda item)

AGENDAS AND REPORTS (MORE...)

If take action in closed session, must report out on certain actions taken and the vote of each member present. Required content specified in Government Code section 54957.1

May keep a confidential minute book to record actions taken in closed session BUT...

- Minutes are open to a court if lawsuit claims an open meeting violation and
- Board members may inspect

PERSONNEL CLOSED SESSIONS



Appointment, employment, evaluation of performance, discipline or dismissal of a public employee or to hear complaints or charges brought against the employee



Restricted to discussing particular employees, not general personnel policies



For specific complaint, must give employee 24 hours notice – they have a right to a public meeting. Failure to notice makes any action void

EXCEPTIONS

No notice to employee is required to consider performance evaluation (as opposed to specific complaints or charges)

“Employee” does not include elected official or member of legislative body



DON'T
FORGET...

Prior to taking final action in open session on executive compensation, must orally report a summary of recommended salary, salary schedule and/or fringe benefits

PENDING LITIGATION CLOSED SESSIONS

Existing Litigation

May discuss existing litigation with counsel, approval to settle, etc.

Threatened Litigation

Legal counsel can inform board of exposure to litigation

Potential Litigation Initiated by Agency

May seek legal advice about whether to initiate litigation



REAL ESTATE NEGOTIATIONS CLOSED SESSIONS

Discuss purchase, sale, exchange or lease of specific real property by or for the agency

Must identify negotiator and the real property involved

Discussion of potential sites not allowed

LABOR NEGOTIATIONS CLOSED SESSIONS

To instruct bargaining representatives on employee salaries and fringe benefits

Before or after negotiations

Prior to closed session, must identify designated representatives

Not all decisions must be reported –
some examples of items that must be
reported:

Real estate agreement

Approval of lawsuit initiation or intervention

Settlement of litigation

Agreement with labor union

Actions affecting employee's status

Some reports won't be made
until issue is finalized (i.e.,
termination not reported until
administrative remedies are
exhausted.)

REPORTING OUT OF CLOSED
SESSION

NO DISCLOSURES OF CONFIDENTIAL CLOSED SESSION INFO

Board members are prohibited from disclosing confidential information that was acquired during a closed session to a person not entitled to receive it.

RECORDS & PUBLIC ACCESS



General rule: agendas, minutes & writings distributed at board meetings are public records.



Documents pertaining to an agenda item distributed to board members less than 72 hours prior to the meeting must be made available to the public.

ENFORCEMENT, PENALTIES AND REMEDIES

Civil Action

- Stop or prevent violations
- Review board rules/action or determine applicability of the Brown Act
- Compel taping of closed session

Criminal Action (Misdemeanor)

- Initiated at District Attorney's discretion
- Two elements required for liability:
 1. Improper intent and
 2. Overt act at meeting

Invalidation Action

- Lawsuit filed to declare action null & void
 - Board given "cure & correct" opportunity
- Exception – failure to give notice regarding complaint or charges against an employee is not curable"*

OPPORTUNITY TO CURE VIOLATIONS



- NO LITIGATION MAY BE COMMENCED UNLESS:
 - District Attorney or Other Interested Party provides the legislative body with a notice of violation and request to cure and correct.
 - Generally must be brought within 90 days of alleged violation, unless violation of 54952.2 (then the timeline is 30 days)
 - Legislative body has 30 days after receipt to cure and correct. (A “do-over”), or respond by saying no violation occurred.
 - Litigation must be filed within 15 days of legislative body’s action.
- If court determines the agency did cure and correct, the case will be dismissed. Cure and correct is not an admission of wrongdoing.

PROCEDURE DOES NOT APPLY TO ONGOING OR FUTURE VIOLATIONS

ENFORCEMENT, PENALTIES AND REMEDIES



Attorney fees may be awarded to the prevailing party against the agency. If the agency prevails, attorney fees are only awarded if the action is deemed frivolous.



THE END.

