



# Brown Act Training

**Clean Energy Alliance**

Community Advisory Committee

June 2, 2022

**Presented by: Lindsay Thorson**

# Ralph M. Brown Act

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"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."

# Applies to “Legislative Bodies”

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## What is a “legislative body?”

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

# Applies to “Legislative Bodies”

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## What is not a “legislative body?”

- Advisory committees that are composed of less than a quorum of members of the legislative body
- Single, limited purpose
- Not perpetual
- Dissolve when task completed

# What is a “meeting”?

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## Elements:

**Majority of  
the  
legislative  
body**

**Same time  
& location**  
(or teleconference  
location)

**To hear,  
discuss,  
deliberate,  
or take  
action on  
any item**

**Within  
subject  
matter  
jurisdiction**

# Serial Meetings Are Illegal

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## What is an illegal serial meeting?

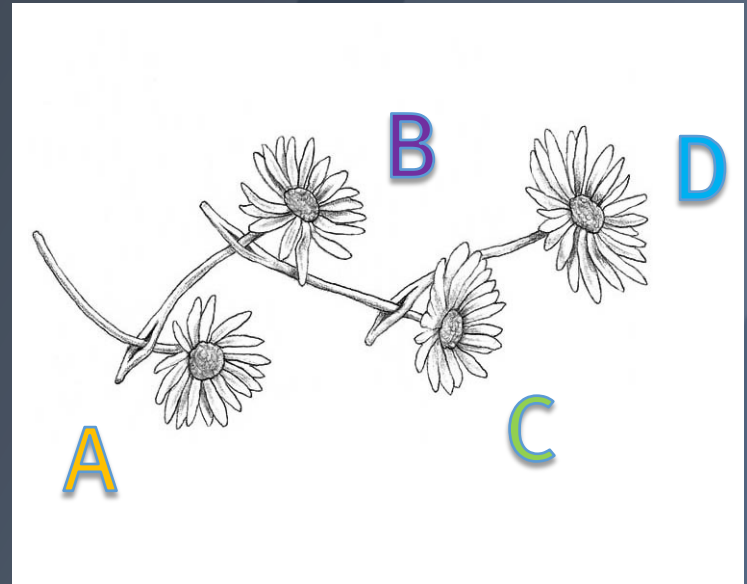
- Series of direct or indirect communications
- By a majority of the body
- To discuss, deliberate, or take action on any item of business or potential business

# 2 Types of Illegal Serial Meetings

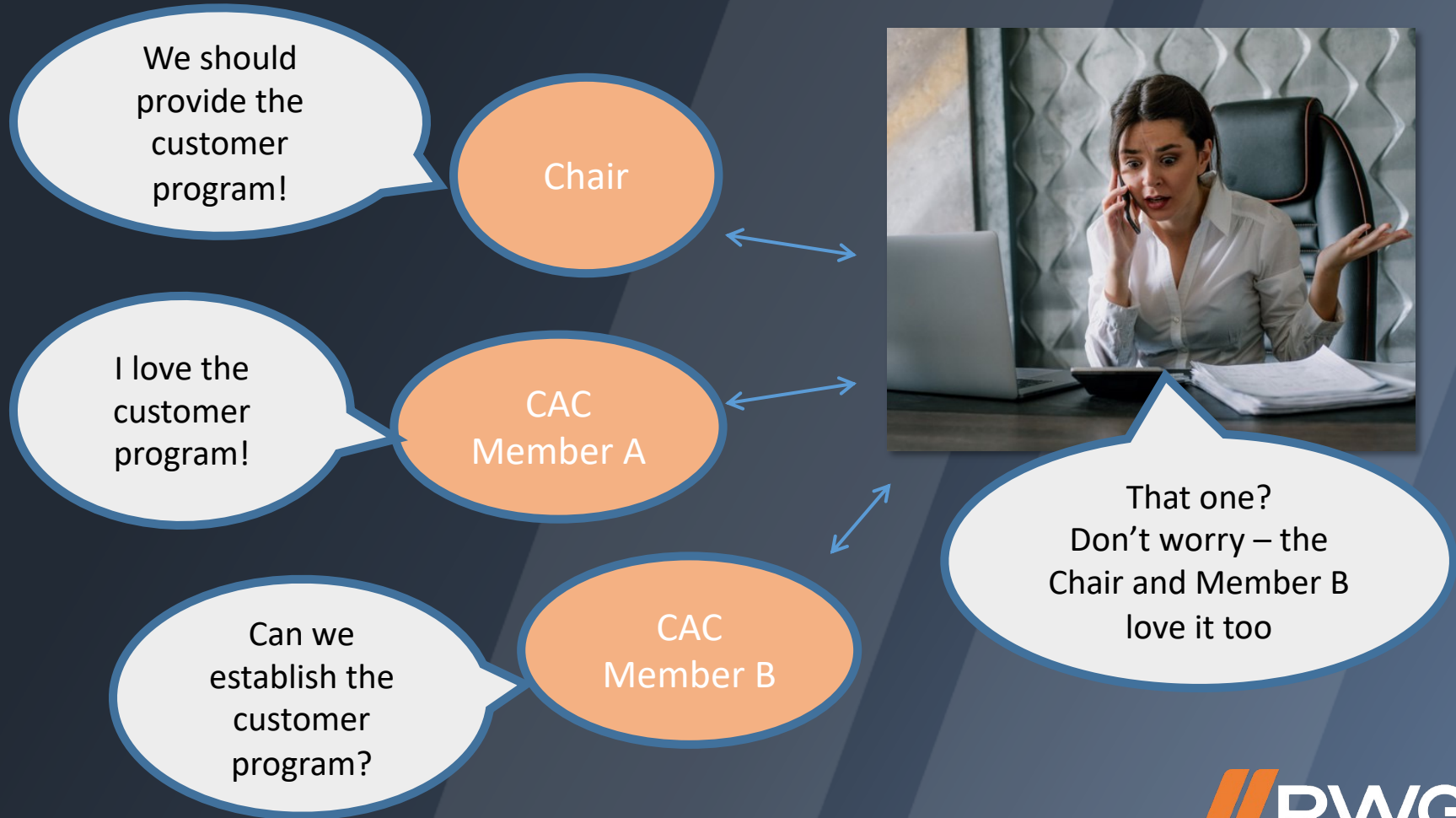
Hub & Spoke



Chain



# Serial Meeting: Hub & Spoke





# Inadvertent Serial Meetings: Tips for Email Communication

**Do not:**

Communicate your position on pending matter to a majority of Members

Solicit responses from other Members when forwarding information you receive

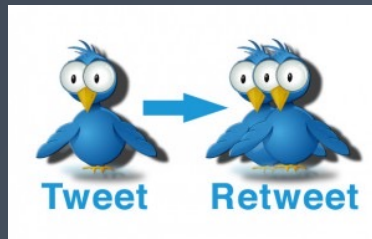
REPLY ALL



# Inadvertent Serial Meetings: Social Media Posts (AB 992)

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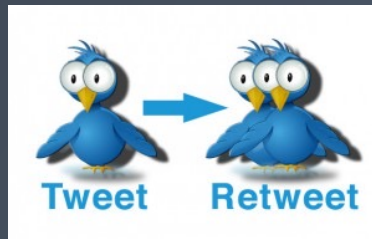
- Members **cannot** respond to communications on social media regarding a public matter that is made, posted, or shared by another member of same body
  - Comments, emojis, or icons to express reactions
    - No “**liking**,” “**retweeting**,” or “**sharing**”
  - Between 2 or more members



# Inadvertent Serial Meetings: Social Media Posts (AB 992)

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- Okay to use social media to:
  - Answer questions from the public
  - Provide information to the public
  - Solicit information from the public



# Meeting Exceptions

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## ■ When is a meeting not a meeting?

- Individual contacts
- Conferences and seminars
- Community meetings publicized and open to public
- Another CEA body, if meeting is open and noticed
- Social or ceremonial events
- Ad hoc committee meetings
- Observation of standing committee meetings



# Regular Meeting



Day, time, and location is set  
by resolution, ordinance, or  
other formal action

Agenda must be  
posted 72 hours in  
advance

General, brief  
description of  
items of business

# Special Meeting

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Called by presiding officer or majority of body

Notice posted 24 hours in advance -- time, place, and agenda

Notice to each Member and press unless waived

Do not need to allow general public comment time



# Adjourned Meeting

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Regular or special meetings may be adjourned to specific time/place

If no time stated, meeting is continued to regular meeting schedule

Secretary or Clerk may adjourn



# Agendas & Agenda Packets

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**Publicly accessible  
and distributed in  
advance to those who  
request copies**

**Posted on Agency's  
website**

**Teleconference  
location, if any, must  
be included on the  
agenda\***



# Agendas & Agenda Packets

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- Agendas and other meeting documents are public records
- If documents are distributed at meeting
  - If by staff or CAC member: make copy available to public during meeting
  - If by someone else: make copy available after meeting

# Item not on Posted Agenda?

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## **No discussion or action on items not on the posted agenda**

- Absolute rule for special meetings
- Exceptions for regular meetings

# Item not on Posted Agenda?

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## Exceptions for regular meetings

- Brief response to public comments
- Clarifying questions
- Refer to staff
- Brief announcement or report on activities
- Request for future report
- Place item on future agenda

# Teleconferencing Under AB 361

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- Legislation that allows legislative bodies to meet remotely during declared emergencies
- Builds upon Executive Order N-29-20, adopted in response to COVID-19 pandemic
- Suspends Brown Act's teleconferencing requirements, if certain conditions are met

# Conditions for Virtual Meetings Under AB 361

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- **Prerequisites:** 1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines meeting in person would present imminent risks to the health or safety of attendees
- **Public comment in real time:** No mandatory advance public comments; agenda must provide opportunity for call-in or internet-based public participation
- **No action during internet outages/disruptions**
- **Legislative body must make periodic findings every 30-days:** (1) reconsidered circumstances of state of emergency; and (2) unsafe to meet in person or health officials impose or recommend social distancing

# Public Participation



The public has a right to speak on:

Any item within the subject matter jurisdiction of body  
*(regular meetings)*

Specific items of business on the agenda  
*(any meeting)*

# Public Participation

- *Cannot* prohibit criticism
- Reasonable regulations of public comments allowed:
  - Time limits
  - Speaker cards
  - Rules of decorum
  - Recording permitted



# Enforcement & Consequences

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## Brown Act Enforcement Actions:

- **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
- **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



**Questions?**



**Thank you!**

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