

# **Does the Brown Act Apply to Local Academic Senates?**



# Committees and Subcommittees

The Brown Act also applies to meetings of all:

- o Standing committees – a committee that has continuing jurisdiction over a particular topic §54952(b) For example: Budgets, personnel, etc.
- o Advisory committees that include a majority of the body and are not standing committees
- o Advisory committees that are standing committees (regardless of the size and membership)

Exception: The Brown Act does not apply to a subcommittee that is made up of less than a majority of the body, is an advisory committee AND is not a standing committee

# Serial Meetings

- o Serial meetings are not allowed
- o Serial meetings occur when a majority of the members have communicated about an issue and have developed a collective concurrence.
- o A collective concurrence is developed when:
  - o Members have either directly or indirectly heard each other's opinion on a topic enough to collectively develop or begin to develop an agreement on an issue.

# Types of Serial Meetings

A daisy chain meeting:

- o Example: When Senator Bob calls Senator Bill to talk about a resolution then Bill calls Senator John to talk about it and finally John calls Senator Fred, etc., until a majority of senators has been contacted. A majority of the senators have talked about the topic and a collective concurrence has been established.

# Types of Serial Meetings

Hub and spoke meeting:

- o Example: For instance, if VPI Terri calls Senator John and discusses a senate issue to get his opinion, then she calls Senator Robert, then calls Senator Bill, and then calls Senator Tim telling each what the other has said, eventually a majority of the senate may have indirectly discussed the topic without public notice and is therefore in violation of the Brown Act.

# E-mail

§5492.2(b):

Except as authorized pursuant to §54953, any use of direct communication, personal intermediaries, or **technological devices** that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited

*The attorney general has issued an opinion stating that this section of the act applies to email.*

# The Attorney General's Opinion Regarding E-mail

- o In 2001 the CA Attorney General issued an opinion regarding the use of email. (Opinion #00-906, 2001)
- o The opinion concluded: A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act.
- o Even if the emails are made public they would still be a violation of the Act because the board would be depriving the public of the deliberative process.
- o The opinion also states, "The term 'deliberation' has been broadly construed to connote 'not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.' [Citation.]" (*Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234; see *Roberts v. City of Palmdale*, *supra*, 5 Cal.4th at p. 376.)
- o You can find the opinion at:  
<http://ag.ca.gov/opinions/published/00-906.pdf>

# Agendas

- o Include meeting time and location, including address
- o Post agenda in a 24/7 publicly accessible area 72 hours before meeting (physically and virtually)
- o Special meetings require 24 hours notice and are limited to agenda items
- o Senates do not call emergency meetings (which do not require 24 hour notice) – public safety is not under senate jurisdiction!
- o Allow for public comments before or during discussion of agenda items
- o Include all action items on the agenda, with a brief description
- o Can change order of agenda



# Action is Limited to Items on the Agenda

- o Exception: Action may be taken on a non-agenda item, BUT this requires:
  - o That the need for immediate action was discovered after the agenda was posted, and
  - o A vote of 2/3 of members present if more than 2/3 of the total membership are present, or a unanimous vote if less than 2/3 of the total members are present.