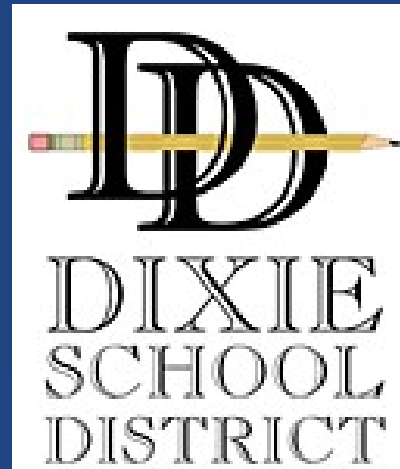


BROWN ACT TRAINING

DIXIE SCHOOL DISTRICT



Presented by:

Manuel F. Martinez, Esq.

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LS Lozano Smith
ATTORNEYS AT LAW

The Brown Act



Brown Act

Agenda

- The Brown Act: An Overview
- Board Meetings
- The Agenda
- Public Participation
- Closed Sessions
- Things to Avoid



Brown Act Overview

- The Brown Act is California's open meeting law.
- Specifies that all meetings of legislative bodies be open to the public, except authorized closed sessions



Brown Act Overview – Board Subcommittees

The Brown Act applies to:

All subcommittees and commissions created at direction of the board, except for “ad hoc” advisory committees of less than a quorum of board members.

- Board Subcommittees: Brown Act Applies if the Committee is created by Board action
- Superintendent Subcommittees: No Brown Act if Committee is created and controlled by the Administration
- Pro's and Con's of Subcommittees

BOARD MEETINGS



What Is A Board Meeting?

Any congregation of a majority of members at the same time and place to hear, discuss, or deliberate on any item within the district's jurisdiction.



Board Meeting



Board meeting **IS**:

Meeting of the Board in public

Board meeting is **NOT**:

A meeting of the public in front of the Board.

THE AGENDA



When Do I Need an Agenda?



All Meetings Must Have an Agenda

Agenda

Generally, the board may not discuss or take action on any item that is not in the posted agenda. However, there are exceptions:

- Emergency situation
- “Subsequent need” items
- Held over items
- Response to public comments



Agenda

Post an agenda at least 72 hours before a regular meeting, or 24 hours before a special meeting.



Agenda

- Brief description of each item
- Written in unambiguous manner so public is aware of what business will be conducted
- Specifies time and location of the meeting
- Posted in public location, freely accessible to public
- If requested, made available in alternative formats (ADA).

PUBLIC PARTICIPATION



Public Comment



- **Make rules clear**
 - written and oral
- **Items on the agenda**
- **Items not on the agenda**
- **Request to speak cards**
- **Legal limits on board response**

Response To Public Comment

In response to public comments, the Board may:

- **Say Nothing**
- **Briefly respond to statements made or questions for clarification**
- **Request staff to report back at a subsequent meeting**
- **Direct staff to place the matter on a future agenda.**

Public Comment

The Board may not prohibit the public from criticizing the Board, the District or its employees...

... However, the board has the right to control the conduct of its meetings, including placing reasonable time limitations on public comment.



Public Participation – Disruption

- Board has right to order disruptive persons to be removed from meeting, and if order cannot be restored, can order the room cleared and then continue with meeting.

- Caveat: Actions that constitute disruption are highly fact-specific

Example: Holding signs v. yelling or interrupting speaker



CLOSED SESSION



Closed Session

- Must be disclosed on agenda
- “Safe Harbor” language



Maintaining Confidentiality

- As a general rule, only governing board members and necessary staff or consultants may attend a closed session.
- Board members are legally prohibited from speaking publicly about matters discussed in closed session.



Closed Session Items

- Going IN – Announced/Referenced in open session prior to going into closed – With opportunity for Public Comment
- Coming OUT – Report out action taken in closed session. Generally is the substance of action taken & vote



THINGS TO AVOID



Serial Meetings – Board Communications

Discussion of school district issues, outside of a board meeting, by a board majority, violates the Brown Act



Serial Meetings

- The Brown Act prohibits use of technology or intermediaries by a quorum of members to conduct a meeting:

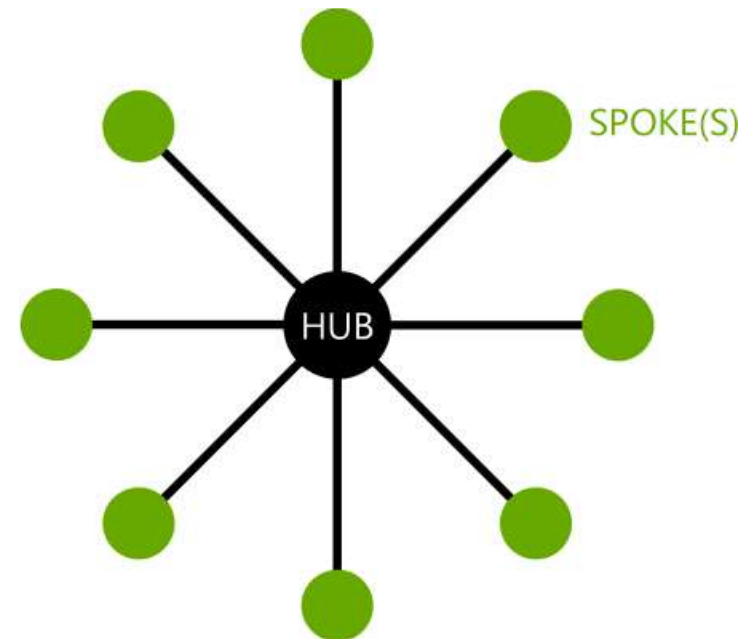
- Email
- Text
- Phone
- In-person
- Third Parties



Serial Meetings

Two types of meetings:

- Linear meeting: A phones B - - B phones C
- “Hub and spokes”: A emails B - - A emails C



Serial Meetings

- However, members may communicate about:
 - The time of a future meeting
 - The date of a future meeting
 - **Caution: Encouraging this practice may lead to inadvertent Brown Act violations**
 - Best practice: Board President and Superintendent set agenda

Questions



Presenter



Manuel F. Martinez

Partner

mmartinez@lozanosmith.com

(925) 953-1620

Manuel F. Martinez is a Partner in Lozano Smith's Walnut Creek Office. His practice focuses on labor and employment, charter school, student, technology and facilities and business issues. He is well-versed in all areas of civil litigation, trial practice and appellate work. He has advised clients on cutting edge issues such as cloud computing, electronic records, and public private partnerships regarding web-based applications. He is also skilled in various aspects of employment law, including dismissals, discipline, investigations and employee/employer relations and negotiations. He also advises clients regarding the Brown Act, Public Records Act, Child Abuse and Neglect Reporting Act and elections. Mr. Martinez is experienced in all aspects of charter schools, including drafting and negotiating MOUs, charter reviews, assisting clients with Prop. 39 facility requests, charter oversight, facility issues, petition review and revocation.



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