The Ralph M. Brown Act
Core of the Brown Act

Public business must take place in public meetings.

“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.”

*California Government Code section 54953*
"Meetings" under the Brown Act

Any congregation of a majority of the members of the legislative body at the same time and place to hear, discuss, or deliberate on any matters within its jurisdiction.

What this means: Any time a majority of FAC members gather to discuss agency business, that is a “meeting” under the Brown Act. The meeting must be public, have an agenda, provide opportunity for public comment, and meet other requirements.

Includes in-person and electronic communications.
Brown Act traps

❖ “Reply All” emails

❖ “Serial” meetings
  ❖ Member A → Member B → Member C → Member D → Member E

❖ “Hub and spoke” meetings
The Brown Act & Social Media (AB 992)

**DO** use social media to communicate with *the public* about Commission business.

- Answer questions
- Provide information and updates
- Solicit information/feedback

**DO NOT** use social media to communicate with *other members* about Commission business.

- Comment on another member’s post
- Like another member’s post
- Share another member’s post
Exceptions to the Brown Act

FAC members can gather, without triggering Brown Act requirements, for:

❖ Conferences open to the public*
❖ Social or ceremonial occasions*
❖ Public meeting of another agency*
❖ Individual meetings between members

*As long as members do not discuss commission business
Remote meetings under the Brown Act

Before COVID-19 pandemic (Brown Act default rules):
- Meetings must take place in person.
- A member may join by teleconference, but only if the teleconference location is included on the agenda, and the public must be allowed to participate at that location.

During COVID-19 pandemic (State of Emergency, AB 361):
- California suspended Brown Act default rules to allow remote meetings to prevent the spread of disease.
Remote meetings under the Brown Act

Since March 1, 2023: Must return to in-person meetings, absent a state of emergency. (AB 2449)

❖ Back to Brown Act default rules

❖ But in limited circumstances, individual members can join remotely without making their location public.
  ◦ Circumstances include caregiving needs, contagious illness, disability, traveling on official business for a government agency, emergency.
  ◦ Can only be used twice per calendar year per member.
  ◦ Legislative body must provide opportunity for public to participate remotely, too.
Other Brown Act Rules

- Detailed agenda must be posted 72+ hours in advance of the meeting
- Discussion at the meeting is limited to items listed on agenda
- Public has the right to attend the meeting
- Public has the right to comment at the meeting
Consequences for Brown Act violations

Rare, but possible:
- Lawsuits
- Criminal penalties
- Commission action gets voided

Common:
- Media & political scrutiny
A brief note on the Public Records Act...

“[A]ccess to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Gov. Code, section 6250.)

Government records shall be disclosed, upon request, unless a PRA exemption applies.

**What this means:** When creating any writing related to public business (email, text message, word doc, etc.), be mindful that the writing is likely a public record subject to disclosure.