



Brown Act 2.0: Transparency in a Digital World

Los Medanos Community Healthcare District

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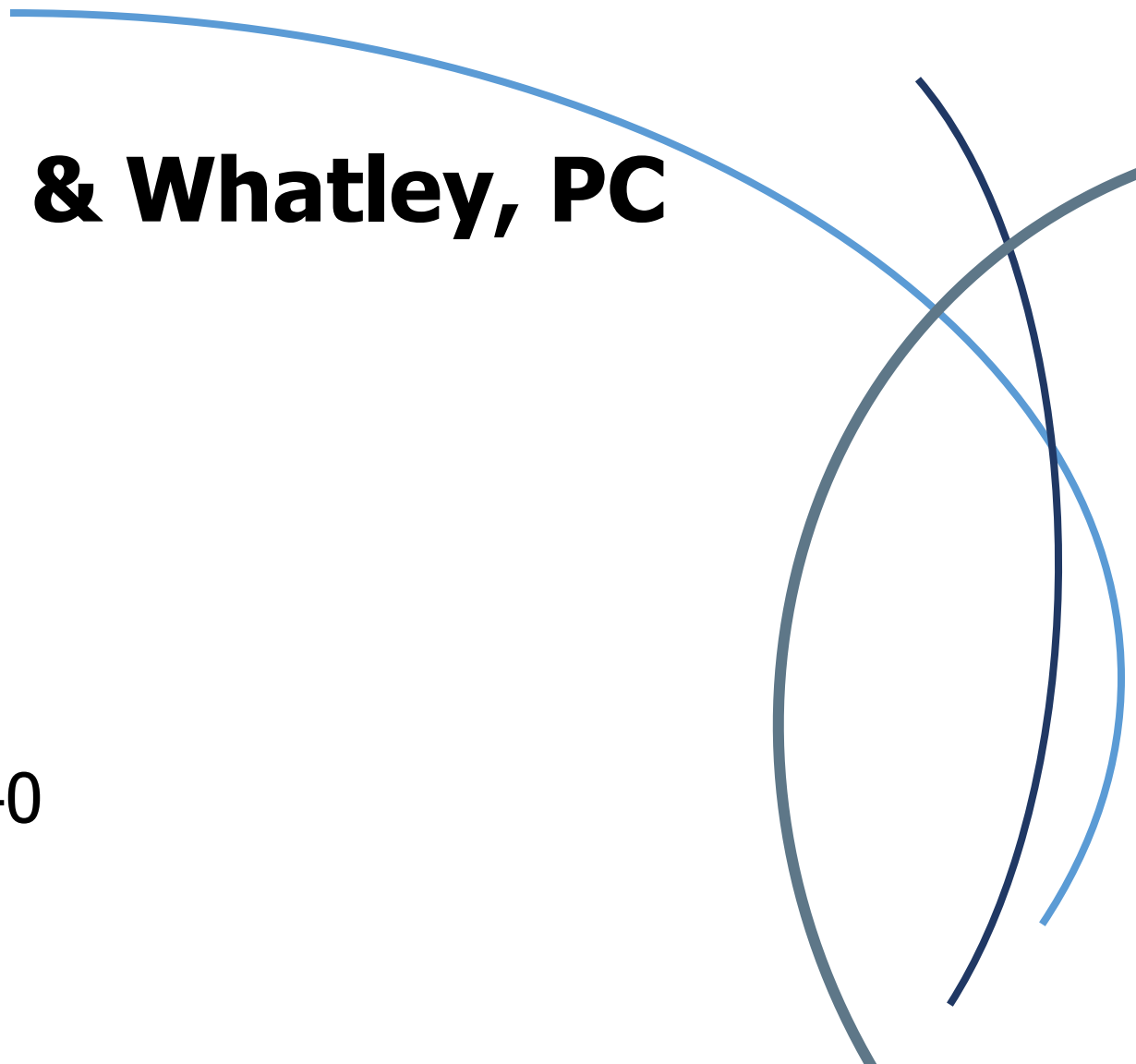
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Purpose of the Brown Act



- “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 provided in this chapter.”

- Gov. Code, § 54953, subd. (a).

What is a Meeting?

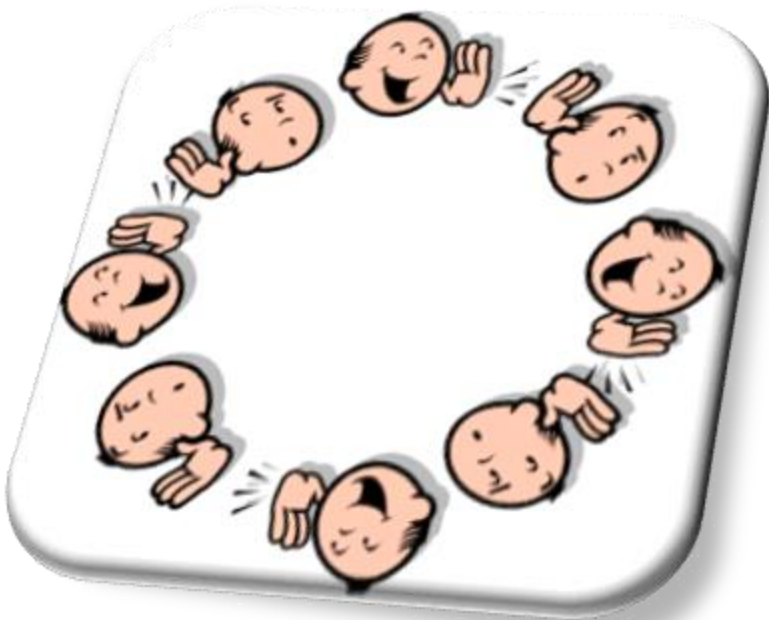
- “Any congregation of a majority of the members of a legislative body at the same time and location, ... to **hear, discuss, deliberate,** or **take action** on any item that is within the subject matter jurisdiction of the legislative body.”
 - Gov. Code, § 54952.2, subd. (a).

What *Else* is a Meeting?

- Any use of a **series of communications** of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

Serial Meetings

- Hub and Spoke
- Daisy Chain



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E-mail

- A majority of members may not e-mail each other to deliberate or discuss any item of District business.
- This rule applies even if
 - e-mails are copied to staff,
 - posted on the District's website, or
 - reported at the next public meeting.
- Beware of the "reply-all button" – Use the "Bcc" field.



Text Messaging

- A series of cell phone text messages with a majority of the Board that deliberate or discuss District business is a meeting.
- If a group text message or a series of text messages includes a majority of the Board and relate to District business, then the Board has violated the Brown Act.

Text Messaging During a Meeting

- Text messages sent during an open meeting are secretive because members of the public are not privy to the content of the text message.
 - Texts sent by constituents
 - Texts sent between Board members
 - Recall the Brown Act's purpose — ***open, public meetings***



Text Messaging Concerns

- Adjudicative vs. legislative action
 - Ex parte contacts
 - Due process concerns
- Public's (in)ability to respond to a text sent to a Board member
- Appearance of secretive communications
- Risk of serial meeting
- Public records?

Social Media – AB 992

- Revises Government Code § 54952.2
- “Internet-based social media platform”
- “Open and accessible to the public”
 - Facebook
 - Twitter
 - Snapchat
 - Instagram
 - Blogs
 - Public chat rooms
 - Newspaper comments sections



Permissible Social Media Use

- You may “engag[e] in separate conversations or communications” on social media regarding District business to:
 - answer questions,
 - provide information to the public, or
 - solicit information from the public.
- *I.e.*, you can post on social media about District business without engaging in a serial meeting.



Impermissible Social Media Use

- BUT ... you cannot respond directly to any post that is “made, posted, or shared” by another Board member.
 - Includes minor contacts
 - “Liking” a comment
 - Responding with emojis.
- **Unusual rule** — prohibits communication between less than a majority.



Impermissible Social Media Use

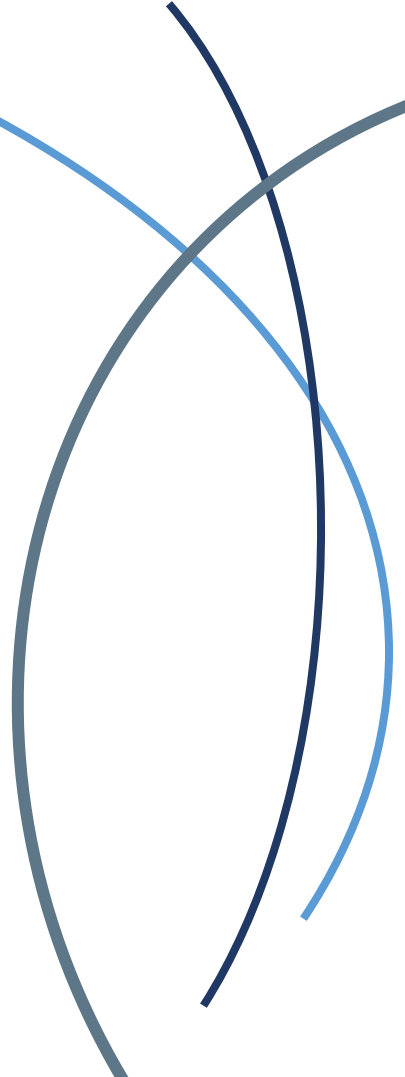
- You cannot use social media interact with a majority of the Board on District Business.
- Broadly refers to other indirect forms of communication like **tagging** in posts and replying to other members' comments through an **intermediary**.



AB 992 Summary

- Allows Board members to interact with the public through social media without conducting a serial meeting – so long as members are not using social media to discuss business amongst themselves.
- Board members may not interact directly with social media posts from other Board members regarding District business – even if their number does not constitute a quorum.

Questions?



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