



THE BROWN ACT

# FRESNO COUNTY FOSTER CARE STANDARDS AND OVERSIGHT COMMITTEE

## 2023 TRAINING ON THE BROWN ACT

Presented by the  
Office of the Fresno County Counsel

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# BASIC RULE

- All meetings of a legislative body of a local agency shall be open and public. There are few, narrowly tailored exceptions.
- “Legislative body” includes commissions, committees, or boards, permanent or temporary, decision-making or advisory, created by law or formal action by another legislative body.
- “Meeting” occurs:
  1. When a majority of the members;
  2. Are present at the same time and place;
  3. To “hear, discuss, deliberate, or take action”;
  4. “On any item within the subject matter jurisdiction” of the Committee.



# QUORUM

A meeting requires a quorum to get started and stay in business.

“A quorum shall be one person more than one-half of the appointed members.” (Bylaws, Article IX, Sec. 2.)

- If no quorum, no “meeting” occurs under the Brown Act. No action can be taken by the present members other than receiving public comments and presentations by staff or third parties.
- If lose quorum, meeting is effectively adjourned. May still receive public comment and presentations by staff or third parties, but no action can be taken – balance inconvenience to staff and public against value of having quorum present to hear comments and presentations.



# BEWARE OF A SERIAL MEETING

***Communications can become an improper serial meeting when:***

- The majority of members use a series of communications to discuss, deliberate, or take action on any item of the Committee's business. This is known as a chain meeting. (Example: Member A contacts Member B, and Member B contacts Member C, etc.; "reply all" email conversations.)
- An intermediary contacts a majority of members sharing information between the members.

***Also, beware of pre- or post-meeting gatherings and retreats or workshops.***



# COUNTY STAFF COMMUNICATIONS

***However, County staff may communicate with members of the Committee:***

- To answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the Committee,
- ***Only if*** County staff does not communicate to a member the comments or position of any other member(s) of the Committee.

***These communications do not trigger the Brown Act.***



# NEW SOCIAL MEDIA RULES

- Members may engage in separate conversations/communications on an internet-based social media platform to answer questions, provide information to the public, or solicit information from the public regarding a matter within the subject matter jurisdiction of the Committee,
- ***Only if*** a majority of the members do not use the platform to discuss among themselves business of a specific nature within the subject matter jurisdiction of the Committee.
- Further, a member cannot respond directly to any communication on a platform regarding a matter within the subject matter jurisdiction of the Committee that is made, posted, or shared by another member.
  - IMPORTANT: This includes comments or use of digital icons that express reactions to communications made by other members. (Example: emojis 😞 👍 .)



# MEETING EXCEPTIONS

- Individual contacts and conversations.
- Attendance at conferences or meetings open to the public and publicized, involving topics of general interest or local community concern.
- Attendance at meetings of other legislative bodies.
- Attendance at a purely social or ceremonial occasions.

*As long as members do not discuss Committee business, these communications do not trigger the Brown Act.*



# TRADITIONAL TELECONFERENCING

Committee may meet by teleconference – through audio, video, or both – ***only if:***

- All votes are taken by roll call.
- Each teleconference location identified in agenda; agenda posted at each location.
- Each teleconference location is accessible to the public.
- At least a quorum of the membership participate from within the County.
- The public has an opportunity to address the Committee directly at each teleconference location; statutory and constitutional rights protected.





# HYBRID TELECONFERENCING

If at least a quorum of the membership participates in person from a single physical location identified in the agenda, each teleconference location does not need to be identified in the agenda or be accessible to the public ***only if***:

- Agenda states how public may access the meeting and offer public comment in real time, in person, and remotely (i.e., audio and visual remote participation).
- Physical location must be open to the public and situated within the County.
- The public has an opportunity to address the Committee in person and remotely.
- If meeting broadcast is disrupted, Committee must take no further action on agenda until access is restored.



# HYBRID TELECONFERENCING

A member can remotely participate in a meeting ***only if***:

- At the beginning of meeting, member notifies Committee of “just cause” to participate remotely and provide explanation OR member requests Committee to allow remote participation due to emergency. An emergency should be agendaized, if there is time.
- Before taking any action, member must disclose whether any other adult is present in the teleconferenced location and the nature of relationship with the individual.
- Member must participate through both audio and visual technology.

*Remote participation is limited to a period of no more than three consecutive months or 20% of the meetings within a calendar year, or no more than two meetings if the Committee meets less than 10 times per calendar year.*



# REGULAR VS. SPECIAL MEETING

## Regular:

- Held at a consistent date, time, and place set by Committee.
- Agenda posted in public place and on website 72 continuous hours before meeting.

## Special:

- Called by Committee Chair or a majority of the members at any time.
- 24 hours before the meeting time: agenda delivered to members and media requesting notice; posted in public place and on website.
- Only transact/discuss items on the agenda; no general public comment period needed.



# NON-AGENDA ITEMS

***Generally, no action or discussion shall be undertaken on any item not appearing on posted agenda.***

Issue arises in one of two ways:

- 1) Members start to talk about the item on the agenda, but get off topic.
- 2) Members want to add something to the agenda.



# ALLOWED NON-AGENDA ITEMS

## ***Exceptions include:***

- “Briefly respond” to public comment.
- Ask a question for clarification.
- Make brief announcement.
- Make brief report on a member’s activities.
- Provide reference to staff or other resources for factual information.
- Request staff to report back or place matter on future agenda.



# CLOSED SESSION

***Narrow exceptions to open meeting rule include the following:***

- Personnel matters – performance evaluation, discipline, complaints.
- Real estate negotiations – price and terms.
- Litigation – existing, pending, threatened.
- Labor negotiations.
- Public security threat.

***Agenda must list the specific reason or reasons for closed session.***



# RIGHTS OF THE PUBLIC

- Right to attend meetings without registering name or providing other information.
- Right to record meeting with camera, audio or visual recorder, unless persistently disruptive.
- Right to address the Committee on each item of business on the agenda and any other matter of public interest within subject matter jurisdiction of the Committee.

*Committee may adopt “reasonable” rules limiting the total amount of time allocated for public comment on particular issues and for individual speakers.*



# SUBJECT MATTER JURISDICTION

## Committee's Statement of Purpose:

- “Exercise oversight and review of systems and services which affect children focusing on, but not limited to the foster care system.”
- “Advise and make recommendations for continuous and lasting systems improvements.”
- “Provide a forum for community input related to the [Committee] purpose.”





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### **Foster Care Standards and Oversight Committee**

**Our Mission:** To lead the charge for excellence in every system that touches kids.

#### UNDERLYING ASSUMPTIONS ADOPTED BY THE COMMITTEE IN MAY OF 2001

- This is an exploration, not an investigation.
- This is problem-solving, not blame-placing.
- This is about systems, not individuals.
- This is about children's needs and about adult's needs only to the extent that they contribute to satisfying children's needs.
- This is designed to develop recommendations for the Board of Supervisors, not to run the day-to-day operations of DCFS.
- This is designed to create systems which enhance the ability of good people to do good work.
- This is an opportunity to give voice to a wide variety of individuals and groups.
- This is an opportunity to educate ourselves and the wider community about the public's role and responsibility for public services for children.
- This is an opportunity for the community, through its representatives, to partner with the public servants whom we employ, in order to improve services for children.
- This is an opportunity to create something which lasts longer than we do.



## THE BROWN ACT

### Child Welfare Services Monitoring & Oversight Resources

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#### CDSS Social Worker Empowerment Hotline (AB 1978)

Social workers can report concerns regarding a county child welfare agency practices, policies, or procedures that endanger the health, safety, or well-being of children at:

TOLL FREE 1-844-796-6283

[AB1978Hotline@dss.ca.gov](mailto:AB1978Hotline@dss.ca.gov)

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#### Complaints Regarding Fresno County Social Worker Conduct

Concerns about possible inappropriate actions of county employees and requests to change assigned social workers should be addressed to the Director of the county CWS agency for resolution.

Ms. Sanja Bugay, Director

P.O. Box 1912

Fresno, CA 93718-1912

[www.cwda.org/membership](http://www.cwda.org/membership)

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#### CDSS Foster Care Ombudsman

Provides a voice to speak and act on behalf of foster children and youth; Acts as an independent forum for the review and resolution of complaints made by or on behalf of children in foster care regarding their care, placement and services; Provides children and youth with information on their rights when placed in foster care; Maintains a toll free telephone number which foster children and youth or any concerned adult may call from anywhere in California to express their concerns and complaints.

Toll Free 1-877-846-7602

<https://fosteryouthhelp.ca.gov/>



# ENFORCEMENT OF BROWN ACT

## Criminal: Misdemeanor for:

- Any member who attends a meeting where action taken not in compliance with Brown Act,
- where member intends to deprive the public of information to which the member knows or has reason to know the public is entitled.

## Civil:

- Committee first given opportunity to cure. Written request to cure must be made within certain time frame.
- If no cure, Committee can be sued.
- If lawsuit successful - action taken will be declared void and may be required to pay plaintiff's attorneys fees.



# CONFIDENTIALITY

- Policy goal: to protect the privacy rights of children.
- Dependency court hearings are closed to the public.
- Dependency court has the broad and exclusive authority over access to confidential juvenile records. *In re Keisha T.* (1995) 38 CA4th 220, 225.
- Even when a dependency petition has not been filed, the disclosure of records is within the jurisdiction of the dependency court. *In re Elijah S.* (2005) 125 CA4th 1532, 1548-1551; *Lorenza P. v. Superior Court* (1988) 197 Cal.App. 3d 607, 610-611.



# CONFIDENTIALITY

Welfare and Institutions Code (WIC) section 827 grants certain groups of people the automatic right to access confidential records.

- If not listed in WIC § 827, petition may be filed in dependency court for limited access to specific records. Judge must find good cause to hear petition. Petitioner must show records are necessary and relevant to stated need. Interested parties must be noticed of hearing and may object.
- To grant petition, Judge must balance interests of parties, petitioner, and public, with primary concern being the minor's best interest.
- If petition is granted, privileged or confidential information protected by other federal or state laws may be redacted. Petitioner cannot disseminate.