



Palisades Charter High School

Governance/Brown Act Training

Date and Time

Saturday July 24, 2021 at 10:00 AM PDT

Location

Palisades Charter High School (**Mercer Hall**) - 15777 Bowdoin Street, Pacific Palisades, CA 90272

Call in only-no video.

Below is the dial in number teleconference for PCHS BOT Training Meeting:

Dial by your location:

- +1 669 900 9128 US (San Jose)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 301 715 8592 US (Washington DC)
- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)

Meeting ID: 897 3648 0726

Passcode: 387138

REASONABLE ACCOMMODATION WILL BE PROVIDED FOR ANY INDIVIDUAL WITH A DISABILITY:
Pursuant to the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, any individual with a disability who requires reasonable accommodation to attend or participate in this meeting of the Governing Board of Palisades Charter High School may request assistance by contacting the Main Office at (310) 230-6623 at least 24 hours in advance.

SUPPORTING DOCUMENTATION:

Supporting documentation is available at the Main Office of the School, located at 15777 Bowdoin Street, Pacific Palisades, CA 90272, (Tel: 310- 230-6623) and may also be accessible on the PCHS website at <http://palihigh.org/boardrecords.aspx>.

ALL TIMES ARE APPROXIMATE AND ARE PROVIDED FOR CONVENIENCE ONLY:

Notice is hereby given that the order of consideration of matters on this agenda may be changed without prior notice. All items may be heard in a different order than listed on the agenda.

Agenda

I. Opening Items

Opening Items

- A. Call the Meeting to Order
- B. Record Attendance and Guests
- C. Public Comment

"Public Comment" is available to all audience members who wish to speak on any agenda item or under the general category of "Public Comment." "Public Comment" is set aside for members of the audience to raise issues that are not specifically on the agenda. However, due to public meeting laws, the Board can only listen to your issue, not respond or take action. These presentations are limited to two (2) minutes, per person. A member of the public who requires the use of a translator, in order to receive the same opportunity as others to directly address the Board, shall have twice the allotted time to speak, and the total allocated time shall be appropriately increased as well. Govern Code § 54954.3(b)(2).

II. New Business / Announcements

A. Announcements / New Business

- Date of next regular Board meeting is Tuesday, August 24, 2021
- Date of the Annual Board Retreat - TBD

III. Governance

A. Updates Regarding the Upcoming School Year

B. Form 700 for Trustees Taking Office

C. Board Member Expectations

D. Board Governance Training

Legal Requirements/Regulations Including Brown Act, Conflict of Interest Laws, Fiduciary Duties, etc.; Best Practices for Excellence in Governance

IV. Board Chair to announce items for closed session, if any.

A. Conference with Legal Counsel: Anticipated Litigation

- (Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9):1 - case

B. Employee Discipline/Dismissal/Release

- (Govt. Code section 54957)

V. Open Session

A. Return to Open Session

B. Report Out on Action Taken In Closes Session, If Any.

VI. Closing Items

A. Adjourn Meeting

Coversheet

Board Governance Training

Section: III. Governance
Item: D. Board Governance Training
Purpose: Discuss
Submitted by:
Related Material: PCHS Brown Act Handout_07_24_2021.pdf

The Brown Act



Presented by:
Mark Bresee

Palisades Charter High School
July 24, 2021

aa/r/r
Atkinson, Andelson
Loya, Ruud & Romo
A Professional Law Corporation

Intent of the Brown Act Government Code § 54950

“...It is the intent of the law that [public agency] actions be taken openly and their deliberations be conducted openly. The people of this state do not yield their sovereignty to the agencies which serve them.”

aa/r/r

Purpose

The purpose of the Brown Act is to facilitate public participation in local government and to curb misuse of democratic process by secret legislation by public bodies.

Boyle v. City of Redondo Beach
(1999) 70 Cal.App.4th 1109, 1116.

aa/rr

The Brown Act in a Sentence

All meetings of a legislative body must be properly noticed, open and public unless a closed session is specifically authorized, provide for public participation, and address only items on the publicly posted agenda.

aa/rr

The Brown Act

Agenda

- ✓ Legislative Body
- ✓ Meetings
- ✓ Proper Notice
- ✓ Open vs. Closed Sessions
- ✓ Public Participation
- ✓ Discussion/Action Only on Items on Agenda

aa/rr

Legislative Bodies



- The Board itself.
- Commissions, committees, or other bodies of a local agency, whether permanent or temporary, decision-making or advisory, **created by resolution or some other formal action** of a legislative body.
- *Exception:* Advisory committee, composed *solely* of less than a majority of the Board.
- *Also:* Closed sessions to discuss negotiations and instruct negotiators are exempt from the Brown Act.

aa/rr

Meetings

- Gathering of a majority to **hear, discuss, deliberate or act** on a matter within the Board's subject matter jurisdiction
- Series of communications of any kind involving a majority, to **discuss, deliberate or act** on a matter within the Board's subject matter jurisdiction
 - Individual conversations between a staff member and a Board member are not prohibited *as long as* the staff member does not convey the position of any other Board members

aa/rr

What is a "Serial Meeting"?



- "A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use 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."

Govt. Code § 54952.2(b)(1)

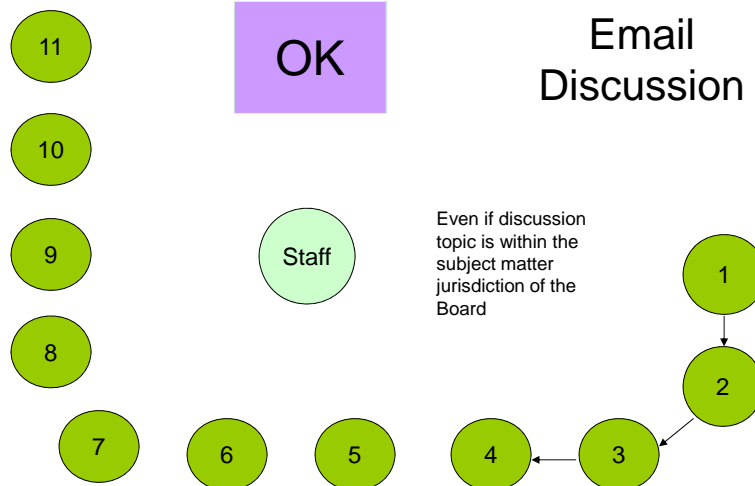
aa/rr

Definitions

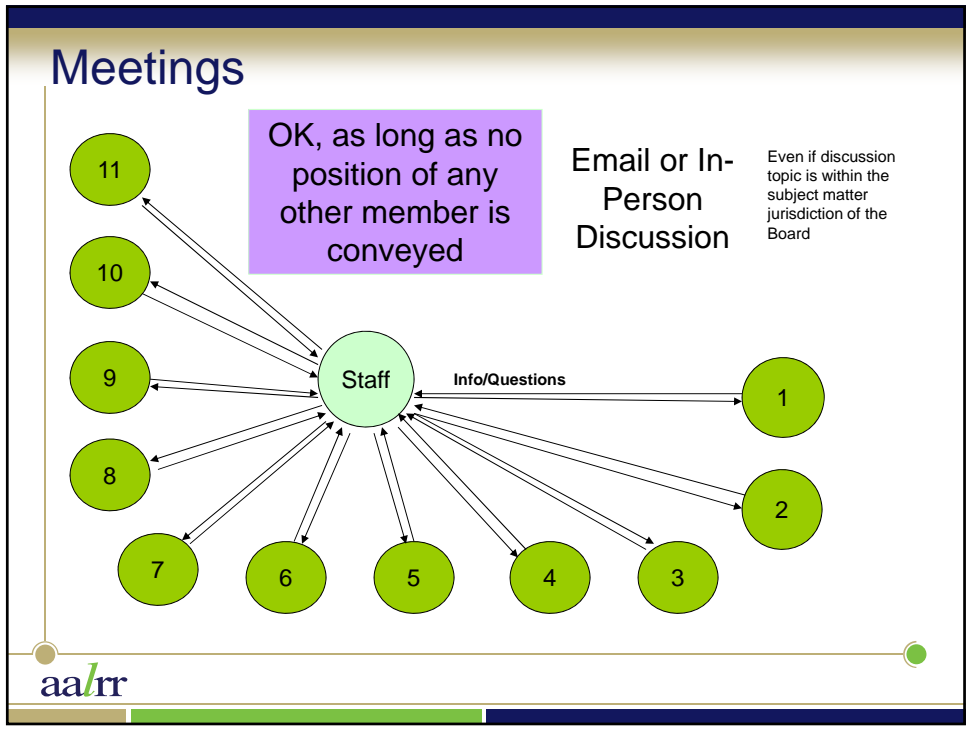
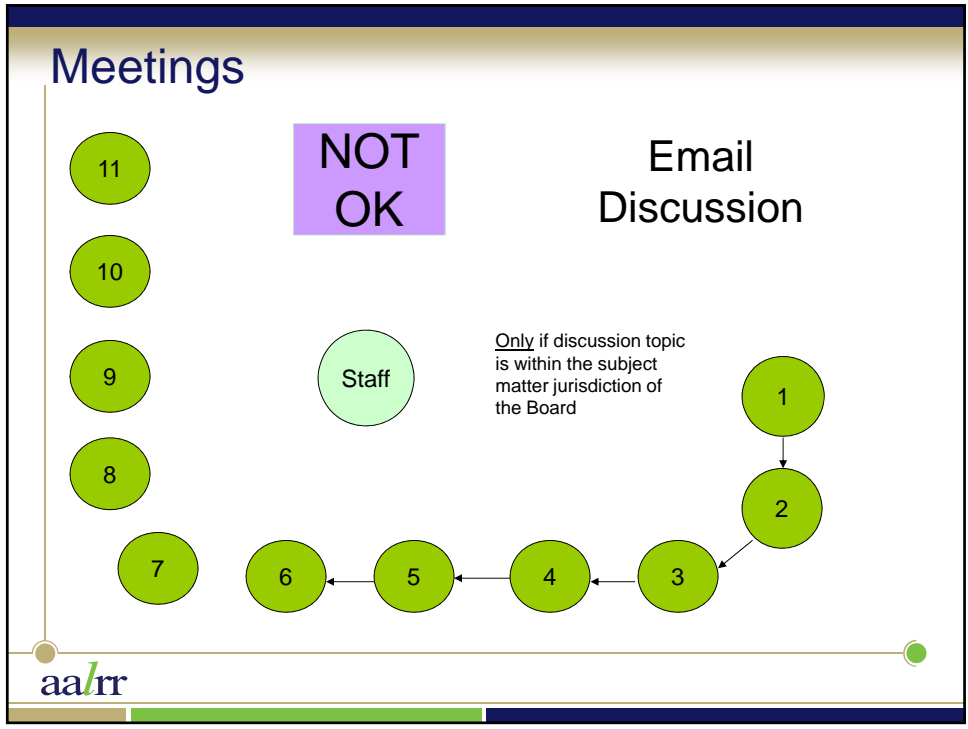
- “Deliberate” includes the collective acquisition and exchange of facts preliminary to an ultimate decision.
- “Action taken” means a collective decision by a majority of the members of the legislative body, a collective commitment or promise by a majority of the members of a legislative body, to make a positive or a negative decision, or an actual vote of the body.

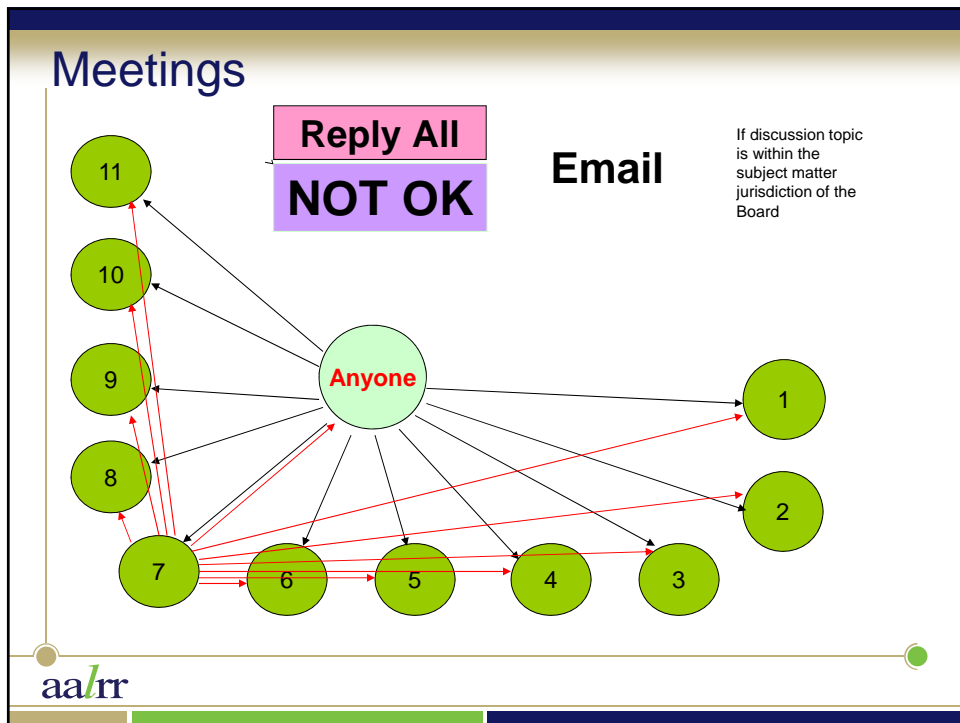
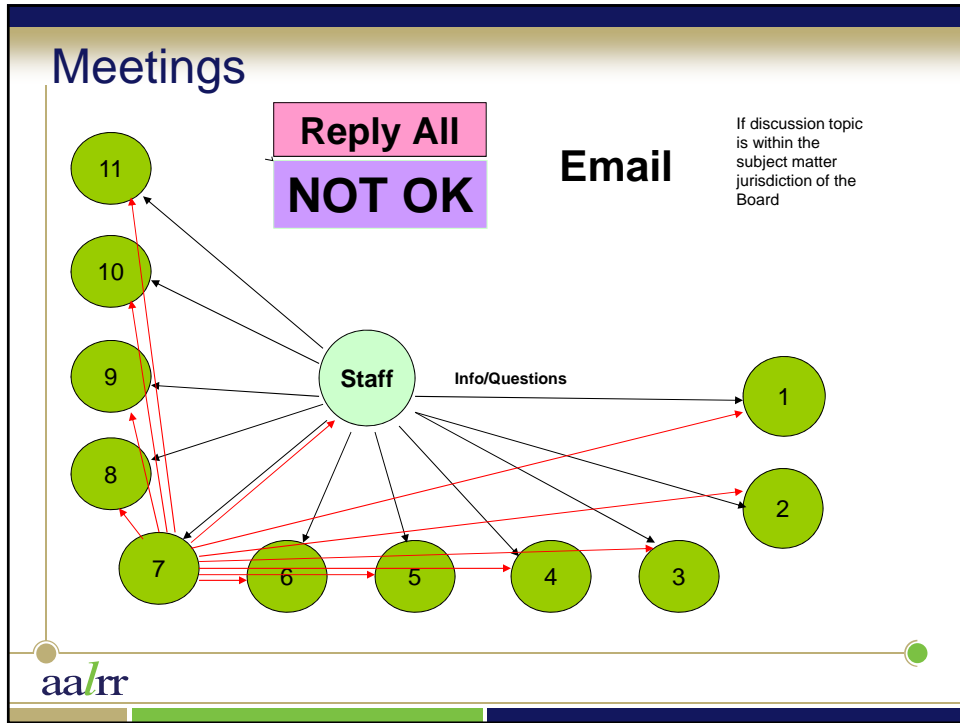
aa/rr

Meetings



aa/rr





New Challenges



aa/rr

Legislative Update on Social Media Use

- AB 992 was signed into law on September 18, 2020 and amended Government Code section 54945.2.
- Certain communications involving a legislative body's members on an internet-based social media platform do not constitute "meetings" under the Brown Act.
- Under AB 992, a legislative body's members **may** engage in **separate communications** on an internet-based social media platform to:
 - "answer questions,"
 - "provide information to the public," and/or
 - solicit public input on matters within the body's jurisdiction.



Except

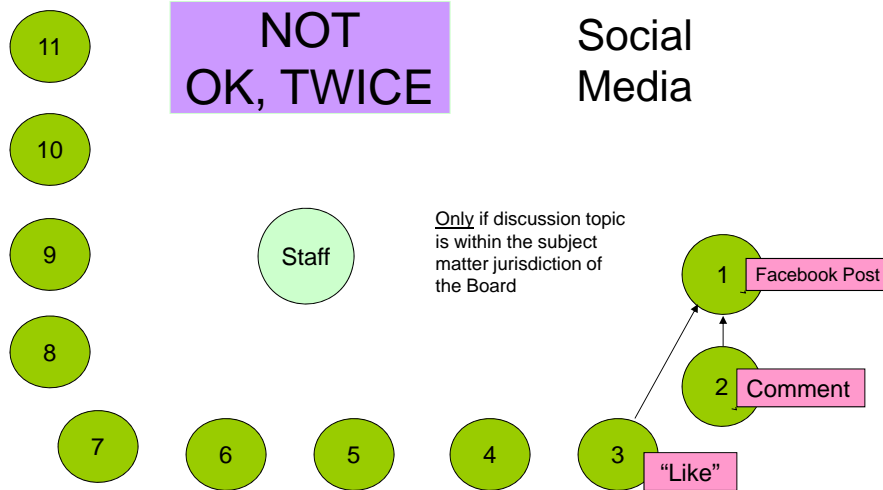
aa/rr

Legislative Update on Social Media Use - Continued

- A majority of the legislative body **may not** “discuss among themselves” “business of a specific nature” within the body’s jurisdiction,” which encompasses:
 - “comments or use of digital icons that express reactions to communications”
 - any communications posted or shared on social media between members of the legislative body
 - responses to the same communication on social media such as the use of emojis, the “like” button, retweeting, etc.
- Members also may not directly respond to a social media communication made, posted, or shared by any other member of the same legislative body regarding a matter within a legislative body’s subject matter jurisdiction.

aa/rr

Meetings



aa/rr

Meetings

- What about the 1st Amendment?



San Diego Unified's vision for educational excellence

By John Lee Evans

Thursday, January 5, 2012

As we enter 2012, the San Diego Unified School District is also focused on the year 2020. How can we afford to do this when we are facing budget shortfalls never seen over the past century? Simply put, we cannot afford to wait.

San Diego Unified's Vision 2020 for Educational Excellence is an initiative approved by the Board of Education in 2009. It lays out a plan to improve public schools by the time our current fourth-graders graduate from high school in 2020.

First, Vision 2020 changes the way that we measure success. The mandated state and federal tests do not measure much of what we want our students to learn. They can actually lead to a narrowing of the curriculum.

aa/rr

Properly Noticed

- For regular meetings, must be posted at least 72 hours prior to the start
- For special meeting, must be posted at least 24 hours prior to the start
- Recently-enacted website posting requirements
- The Act requires that the agenda contain a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A "brief general description" of an item generally need not exceed 20 words.

aa/rr

Properly Noticed

- Amending an agenda inside of the 72 hours or 24 hours is generally not permitted, unless it is to “pull” the item or make non-substantive corrections.
- The agenda must reasonably apprise the public of the matters to be considered in sufficient detail to allow the public to determine whether to participate at the meeting.
- “Continuation school site change” (*Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196.)

aa/rr

Closed Sessions

- Must be based on a specific Brown Act authorization
 - “This is a confidential topic” is not necessarily enough — it must fit into a specific authorization
- There are many authorizations
- All are narrowly construed in favor of openness

aa/rr

Closed Sessions

- Closed Sessions are *still meetings*
 - Must be listed on the agenda
 - Exception: Collective bargaining to instruct negotiators
 - Preceded by an open session, disclosing the items to be discussed in closed session, and with public comment rights*
 - For some actions, must be followed by an open session announcing the action(s) and the vote of each member
- *Receipt* of confidential information is not a “meeting,” and therefore not a closed session

aa/rr

Public Participation

- Public must have an opportunity to address items on the agenda *before or during* the Board’s *consideration* of the item
- For *regular meetings*, must allow public comment on non-agenda items
- For public comment on agenda and non-agenda items, a board “may adopt reasonable regulations ... including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.”
 - Total time per speaker
 - Total time per topic
 - Total time for non-agenda public comment

aa/rr

Public Participation

- Video/audio recording and photographing are rights of the public unless it prevents conduct of business
- No secret ballots
- Agenda backup materials are public records, unless exempt from disclosure
- Materials provided to board within 72 hours of meeting must be made available to the public immediately on request
- Beware the danger of the perception of “silent participation”
 - Conversations during breaks
 - Texting during meetings

aa/rr

Limited to Items on Agenda

- The Rule: “No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may:”
 - Briefly respond to statements made or questions posed by persons exercising their public testimony rights.
 - On their own initiative or in response to questions posed by the public, ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities.
 - Provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.
- Be careful — it is easy to stray beyond these boundaries.

aa/rr

The Brown Act in a Sentence

All meetings of a legislative body must be properly noticed, open and public unless a closed session is specifically authorized, provide for public participation, and address only items on the publicly posted agenda.

aa/rr

Question & Answer
Session

aa/rr