



PASADENA

BRIEFING ON BROWN ACT, PUBLIC RECORDS ACT, AND RULES OF PROCEDURE

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October 26, 2021

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Topics Covered

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- **Brown Act**
- **Public Records Act**

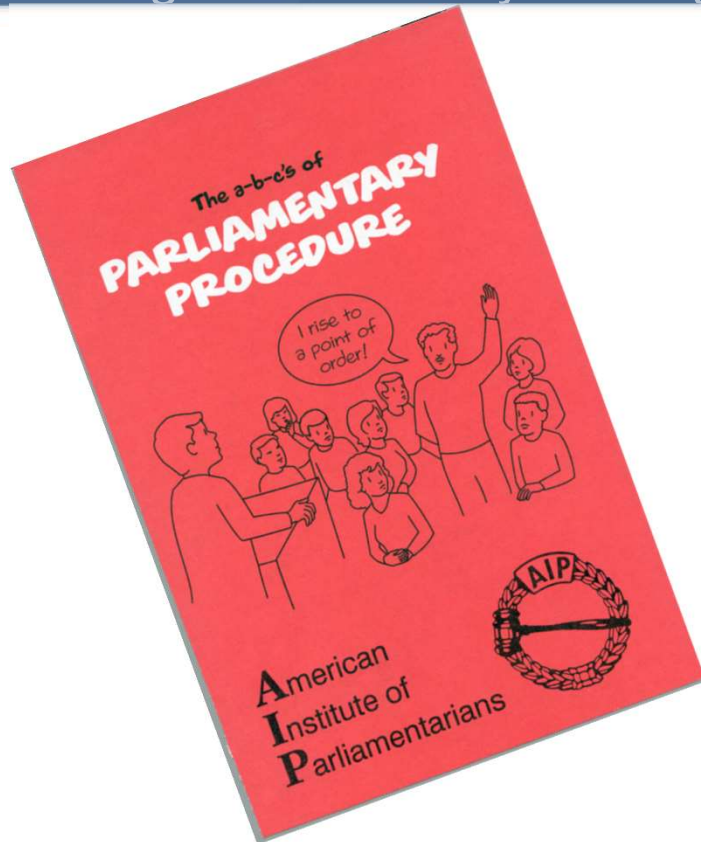


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Rules of Procedure & Conduct

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Brown Act

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- Adopted in 1953
- Ensures the public's right to attend meetings of local public agencies
- Requires that all “meetings” of a “legislative body” be open and public



Legislative Body

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- Governing body and any commission, committee, board, or other body, whether permanent or temporary, decision making or advisory, created by formal action of a legislative body
 - > Includes standing committees
 - > Not “ad hoc” committees



Agendas

Briefing to Community Oversight Police Commission – October 2021

- **Contents of Agenda**
 - > Brief description of matters considered in both closed and open session
 - > Informs public of business conducted
- **Example of insufficient listing**
 - > Approve agreement where retail store would pay for special election to authorize siting and construction of supercenter

6

16. Wal-Mart Initiative Measure

Recommendation:

Provide direction to staff.



Meetings

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- What is a “meeting?”
 - > Broadly defined
 - > Any gathering where majority of the Board discusses or deliberates on any item of agency’s business or potential business
 - > Seriatim meetings that create a majority are prohibited

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Regular Meetings v. Special Meetings

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- **Regular Meeting**
 - > Occurs at time and place specified by the Commission
 - > Agenda must be posted 72 hours in advance
 - > Public comment on matters not on the agenda (but within the body's jurisdiction) is allowed
- **Special Meeting**
 - > Discuss only discrete items on the agenda
 - > Agenda must be posted 24 hours in advance



Public Records Act

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- Passed in 1968
- Modeled on the federal Freedom of Information Act
- Public right of access to information concerning the public's business



Public Records Act

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- Two types of access
 - > Right to inspect public records
 - > Prompt availability of copies of records
- Presumption that all documents are disclosable unless exempt
- Exemptions set out by statute
- Balances
 - > Public's right to know
 - > Individuals' right to privacy





What is a “public record?”

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- Any writing...
- ...containing information relating to the public's business...
- ...prepared, used, retained in the course of business...
- ...regardless of the physical form or characteristics.
(Government Code Section 6252(e))



2018 Police Transparency Laws

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- Covered in Commission training
- Signed by Governor Brown in 2018
- SB 1421 (Skinner) – disclosure of certain police officer personnel records
- AB 748 (Ting) – disclosure of body-worn camera video in certain instances



City of San Jose v. Superior Court

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- March 2017 California Supreme Court opinion
- Electronic communications involving agency business on employees' private devices and accounts may be considered public records



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ILLINOIS BAR JOURNAL

December 2013 • Volume 101 • Number 12 • Page 606 • [Print](#)

The Magazine of the

Lawpulse

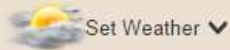
Aldermen's texts, tweets during council meetings are 'public records'

By Adam W. Lasker

Put your phone down as soon as the meeting starts, a lawyer for local officials counsels his clients in the wake of *City of Champaign v. Lisa Madigan*.



Menu



 cleveland.com
COVERING NORTHEAST OHIO

Parma residents question City Council's use of text messaging during public meetings



Cincinnati council member indicted for deleting texts

April 15, 2021

CINCINNATI (AP) — A Cincinnati city council member has been indicted on a tampering with records charge for allegedly deleting text messages related to an ongoing investigation, the latest council member to face wrongdoing allegations.

ANAHEIM

Anaheim Councilman's Vulgar Text Messages Trigger Calls For Investigation, Recall Effort

BY [BRANDON PHO](#) Published Jul 16, 2021 Updated Jul 18, 2021

[Why you can trust Voice of OC](#)





Enforcement

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- Litigation
- Requestor receives court costs and attorney's fees if requestor
 - > Prevails in litigation; or
 - > Lawsuit motivates disclosure (“catalyst” theory)



Rules of Procedure

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- Pasadena Municipal Code Section 2.45.030

“All meetings of advisory bodies shall be conducted in accordance with Robert’s Rules of Order, latest revised edition.”

September 2020 release of *Robert’s Rules of Order Newly Revised 12th Edition* is the latest revised edition.



Robert's Rules of Procedure

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- “The ABC’s of Parliamentary Procedure” brochure
- Applies to the extent not preempted by laws
- Goal is to get business accomplished & provide fair process for all involved
- Chair and legal counsel can make rulings, or vote of body



Standards of Conduct

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- **Standards of Conduct for Boards, Commissions & Committees**
 - > Resolution #4830 in effect since 1982
 - > Ethical conduct and personal integrity to foster public respect, confidence and trust
 - > Decision-making for the overall public good, and not in the interest of a particular group
 - > Effective, courteous, cooperative relationships among Commission and staff



Commission Communication Policy

Briefing to Community Oversight Police Commission – October 2021

- Resolution #5048 in effect since 1983; memo in 1989
 - > City Council is the only body to establish City positions on County, State and Federal legislation and policies
 - > If commissions want City to take position, must first recommend to City Council
 - > Taking a position publicly and communicating with media is the role of the City Council or Public Information Officer, unless Council approves in advance



Conflicts of Interest

Briefing to Community Oversight Police Commission – October 2021

- State conflicts of interest laws apply—FPPC Form 700 filed
 - > Reporting requirement reflects some level of economic interest & is public
- Political Reform Act: Can't make or participate in making a decision in which you may have a specified financial interest—Must recuse, announce & leave room



Conflicts/Conduct Procedures

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- Abstaining/recusing oneself from a discussion or a vote only needs to occur under certain circumstances
 - > Undue Bias
 - > Conflict of interest (usually financial impact)
 - > Abstention for other reasons could frustrate the purpose of your appointment to the commission

