

Staff Communications & the Brown Act

RULE: A majority of the Board are prohibited from *discussing, deliberating, or decision-making* on any topic within the Board's scope of authority, either directly or through intermediaries, except during an officially sanctioned meeting. - Cal. GC § 54952.2, subd. (b)(1)

Board member to Board member communications outside of official meetings are challenging, with regard to Brown Act compliance; and there is value to relying on staff communications to inform Board members outside of an official meeting. Staff communication to Board members can also help identify the proper path to addressing an issue in a compliant and effective way, so that when a matter is agendized for action, the Board is well-informed and ready to address it. RGS understands that communication between staff and Board members, requires careful consideration from both parties, and recommends the following guidelines:

WHAT TO DO:

- For Staff: Report purely factual information that cannot be inferred to be sourced from a Board member. Staff should ascertain facts and report from own knowledge.
- For Staff: Generally, staff's opinion should not be expressed, nor should any information reflective of Board member judgments, opinions, viewpoints or outlooks. Prior public actions of the Board may be referenced if appropriate; and if public Board action is to be agendized as a result of the communication, staff analysis may be presented in a covering staff report with such an item.
- For Staff: Do communicate messages in a one-way direction only. Best practice is to "bc" all Board members to avoid accidental "reply all" messages.
- For Staff: Use this messaging option infrequently. If a scheduled report on agency activity is of value to the Board, predetermine the content, remain consistent, and publish such reports on the agency website as well.
- For Board Members: Do not "reply all" – clarifying questions may be conveyed in a reply to the staff sender, who will then determine if another "all Board" communication or other response is appropriate.
- For Board Members: Do not forward messages to others. If you believe additional stakeholders need information, or an issue needs to be agendized, please reply to the staff sender to properly prepare and execute the process by which this happens.
- For Board Members: Do not share your opinions or perspective on an issue in replying to staff. This prevents any errors on the part of staff members.

