

An Overview of the Brown Act



Presented by:
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Citizens’ Bond Oversight Committee
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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.”

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

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.

What is a “Serial Meeting”?

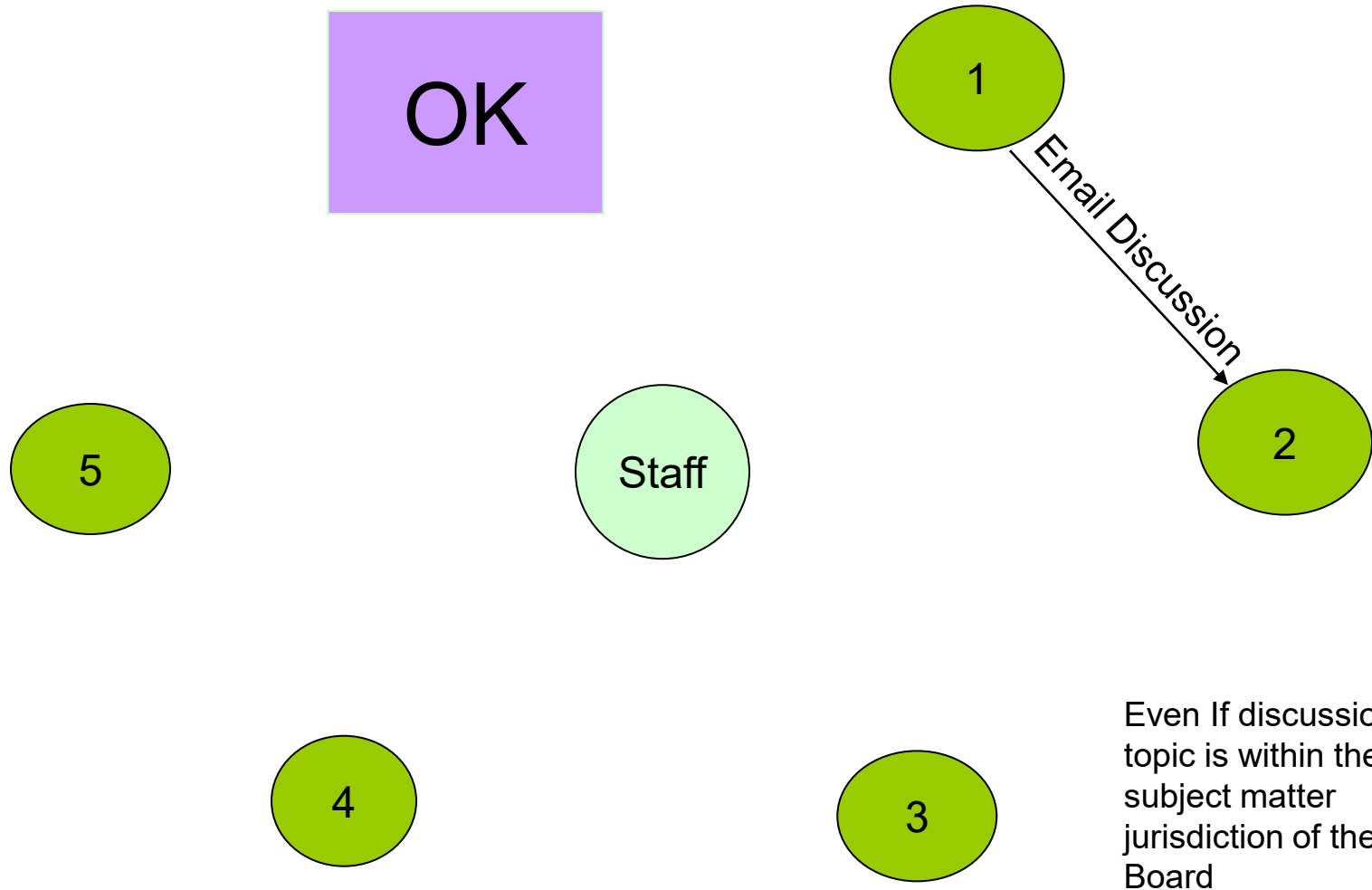
- “A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, **to discuss, deliberate, or take action** on any item of business that is within the subject matter jurisdiction of the legislative body.”
- Individual conversations between a staff member and a board or commission member are not prohibited as long as the staff member does not convey the position of any other member.



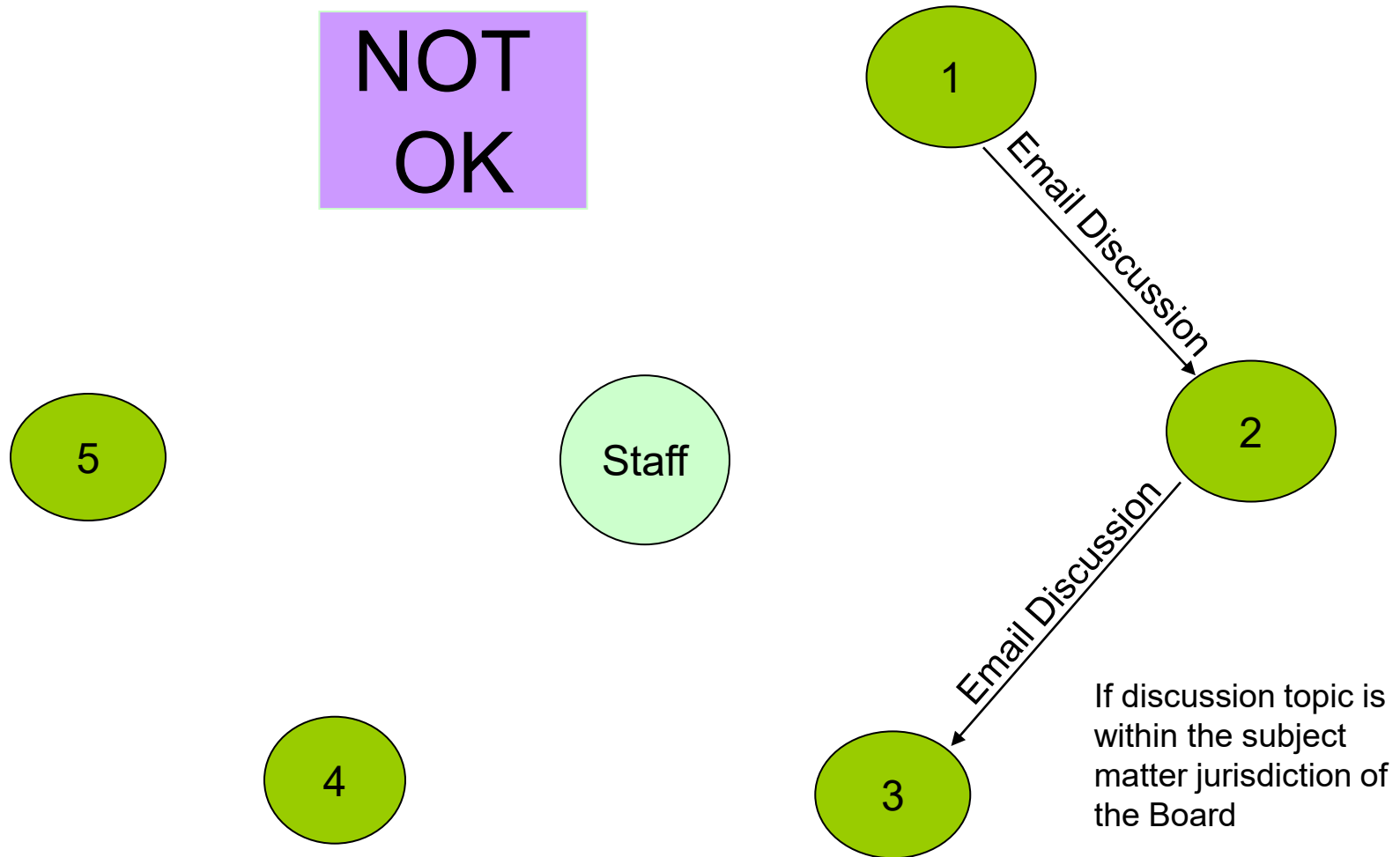
Definitions

- “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.

Meetings — Governing Board

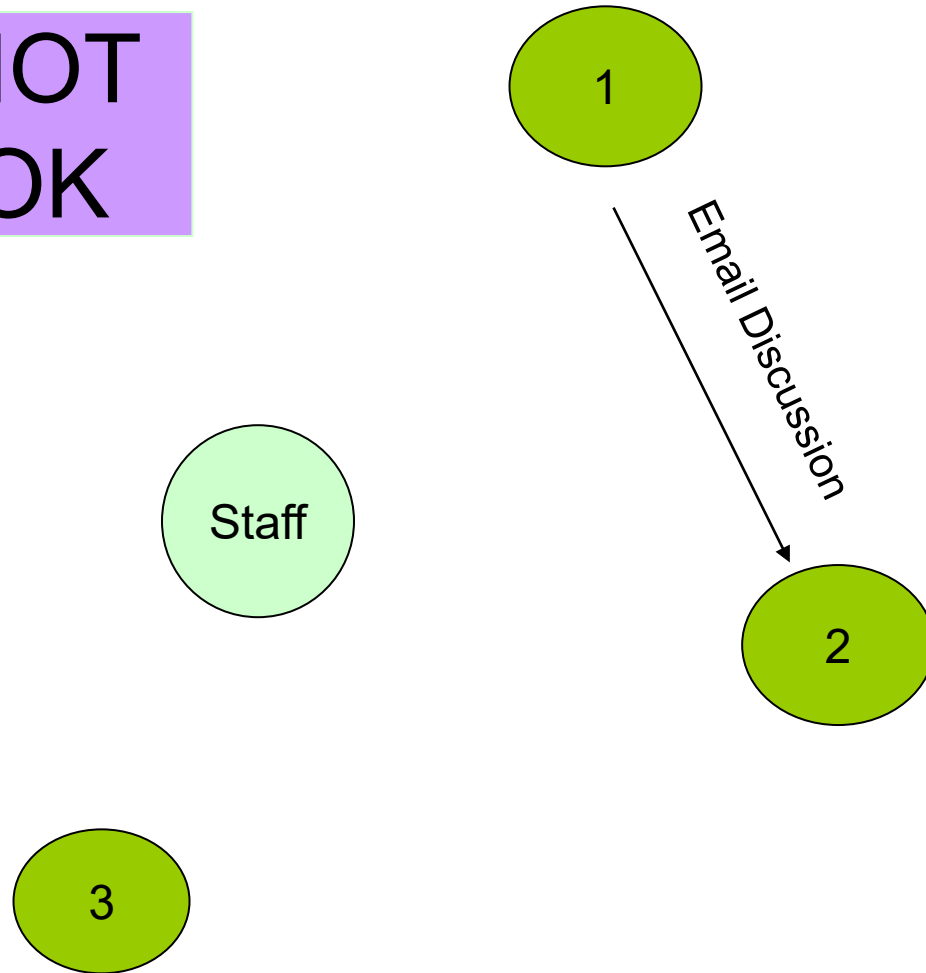


Meetings — Governing Board

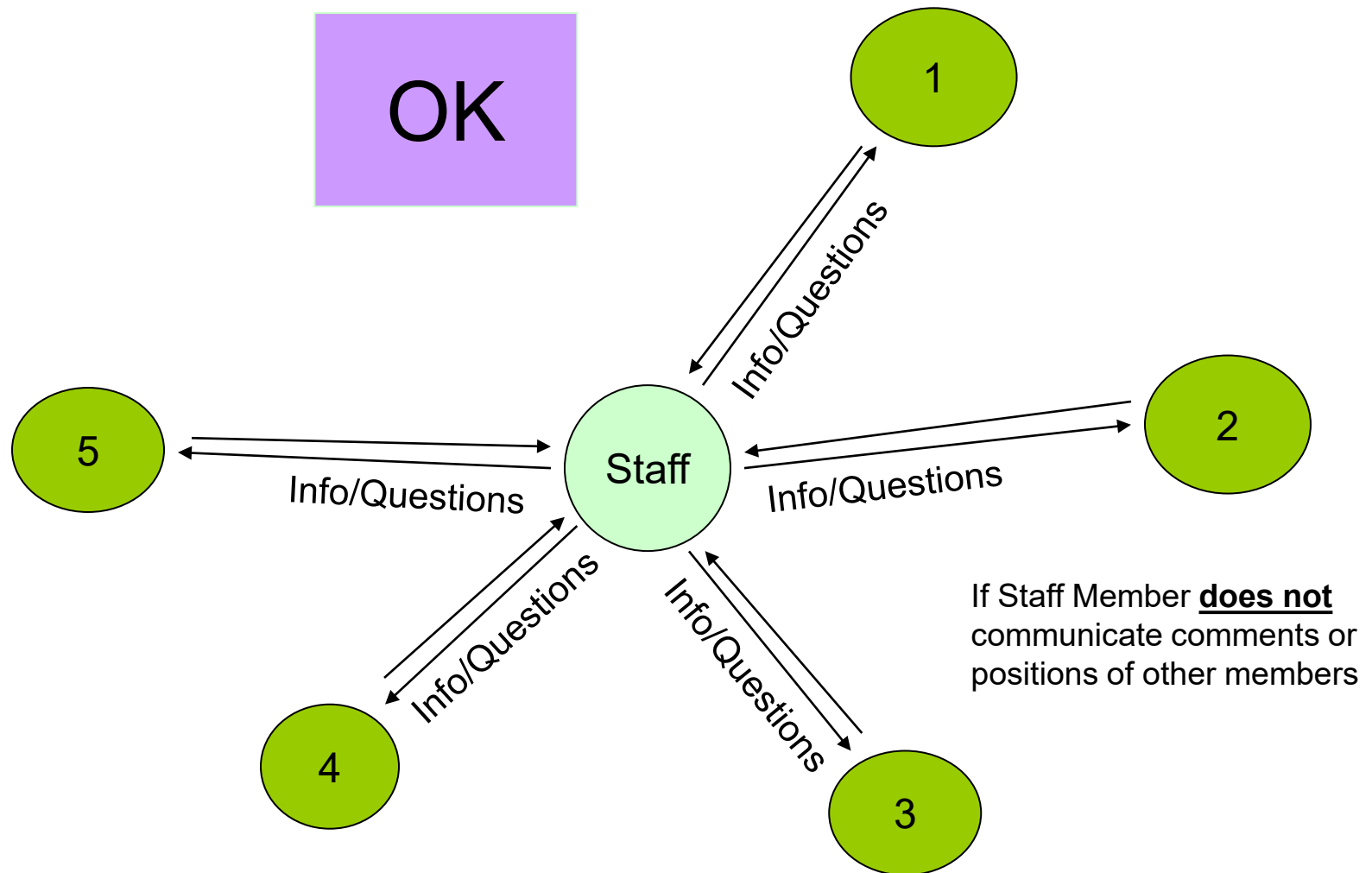


Meetings — Personnel Commission

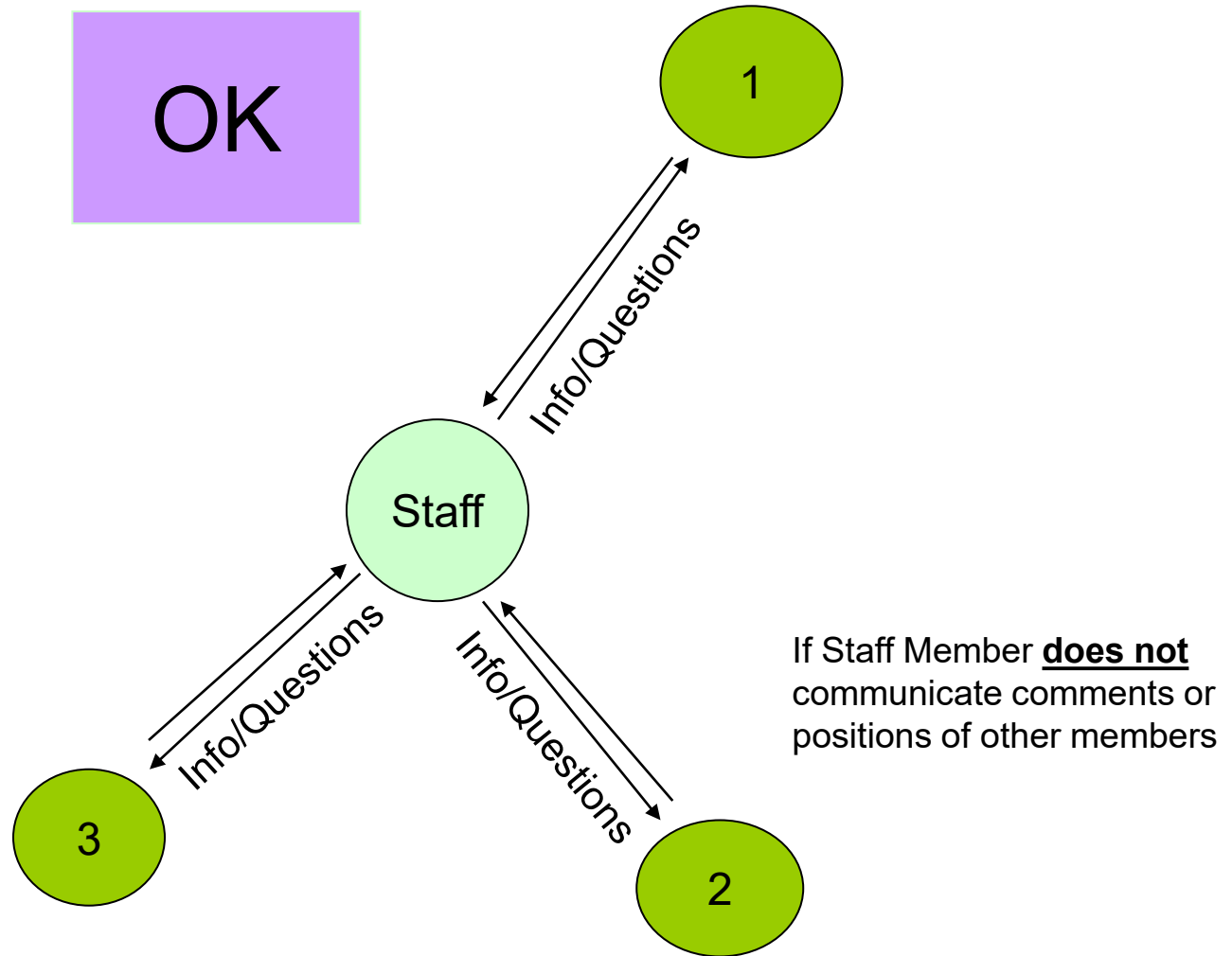
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Meetings — Governing Board

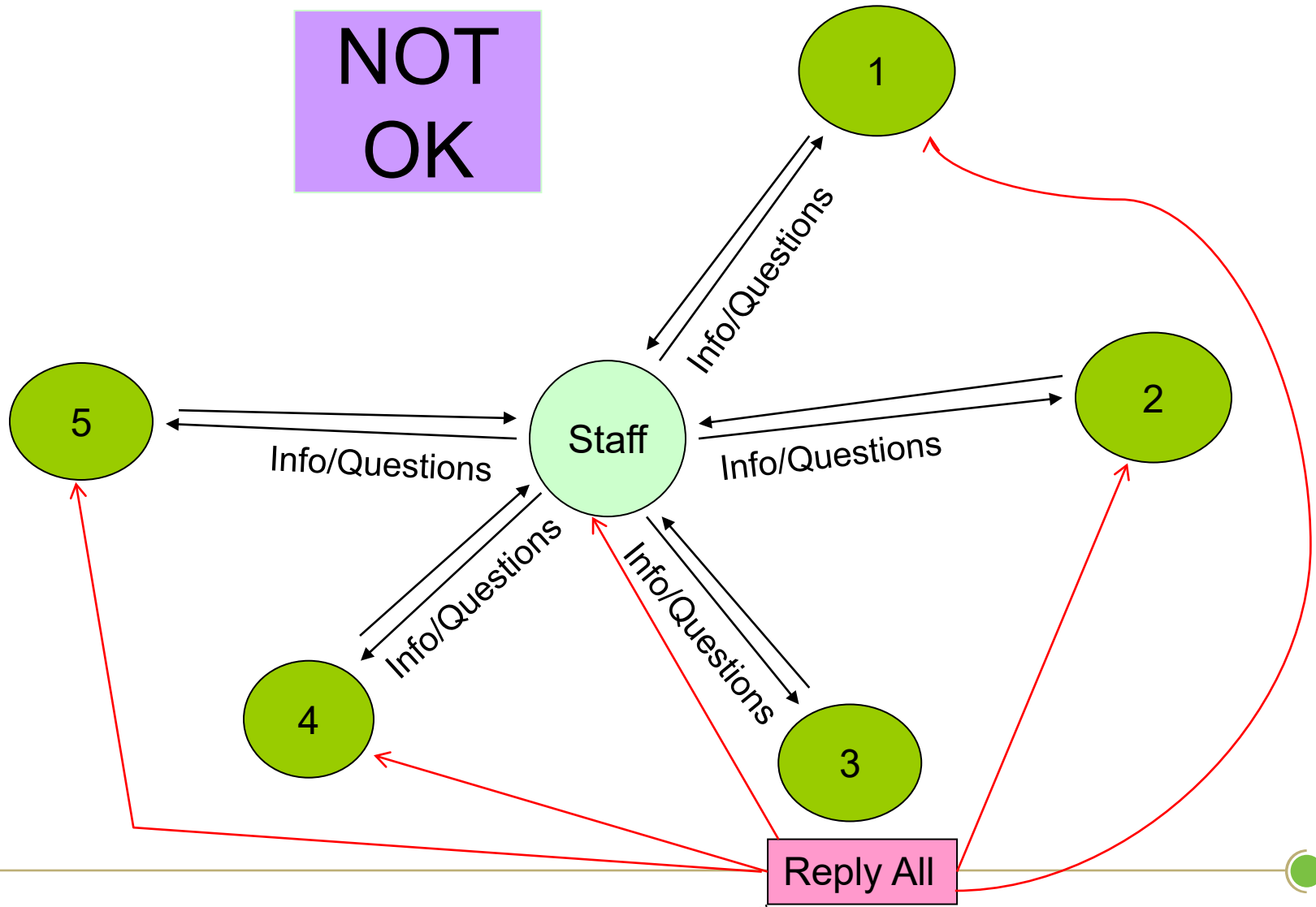


Meetings — Personnel Commission



Meetings

NOT
OK



Technology Challenges



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

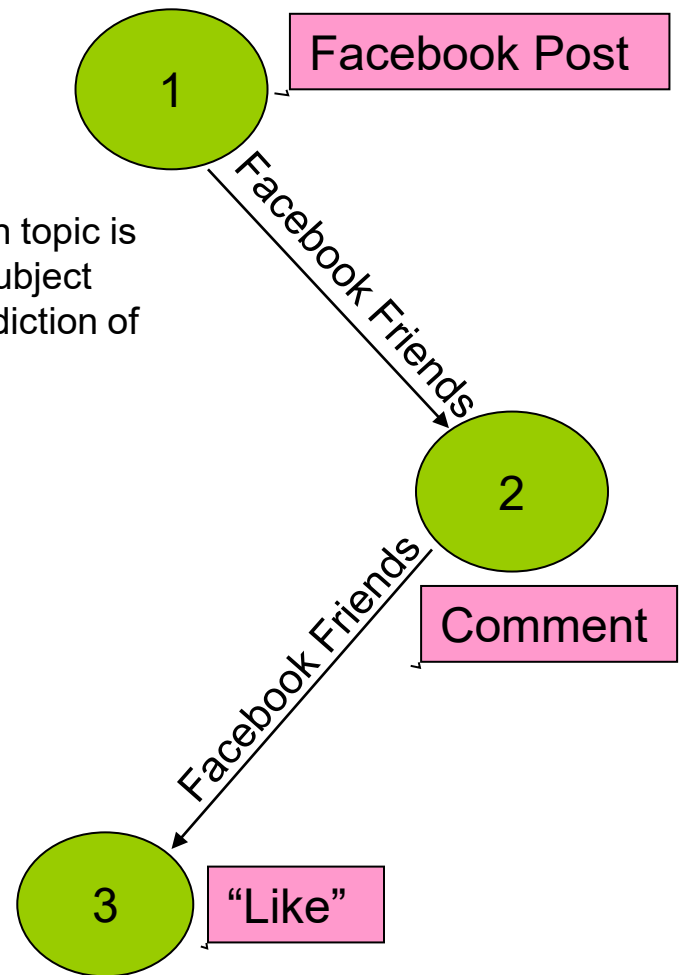
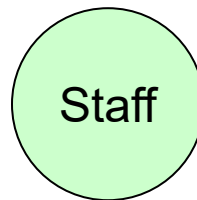
Social Media Use

- 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.

Meetings

NOT
OK, x 2

If discussion topic is
within the subject
matter jurisdiction of
the Board



Remote/Teleconferenced Meetings

- Significant evolution since the onset of the COVID-19 pandemic.
- Currently there are three options:
 - The traditional rules under the Brown Act
 - AB 361, effective until January 1, 2024
 - AB 2449, effective until January 1, 2026

Remote/Teleconferenced Meetings

Traditional

- Teleconference locations identified in the meeting notice and agenda for the meeting;
- Teleconference locations must be accessible to the public;
- Must provide an opportunity public comment at each teleconference location;
- All votes must be roll call votes; and
- At least a quorum of the members of the legislative body shall participate from locations within the boundaries of the district.

Remote/Teleconferenced Meetings

AB 361 (for the rest of this year)

- The flexibility previously-adopted remains in effect during a state of emergency proclaimed by the Governor or authorized designee, and either:
 - “Local officials have imposed or recommended measures to promote social distancing;” or
 - By majority vote, the legislative body determines “meeting in person would present imminent risks to the health a safety of attendees.”

Remote/Teleconferenced Meetings

AB 361 (for the rest of this year)

- With no state of emergency in effect, can continue meeting remotely if every 30 days:
 - The legislative body reconsiders the circumstances;
 - The legislative body concludes there is a continued impact on the ability of members to meet safely in person; and
 - State or local officials continue to impose or recommend measures to promote social distancing.

In either scenario:

- Must also allow members of the public access to meetings via the internet;
- Must allow members of the public to make public comments in real time; and
- Cannot require that members of the public submit comments in advance.

Remote/Teleconferenced Meetings

AB 2449 (through January 1, 2026)

- Allows *less than a majority of the board* to attend via teleconference, when a majority of the board participates from a single physical location open to the public.
- Applies in two circumstances:
 - For “just cause,” defined as childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, a contagious illness that prevents a member from attending in person, a physical or mental disability, or traveling for agency business.
 - In “emergency circumstances,” defined as “a physical or family medical emergency that prevents a member from attending,” requested by the member and approved after disclosure of reasons.

Remote/Teleconferenced Meetings

AB 2449 (through January 1, 2026)

- Procedural Requirements:
 - Member must make separate requests for each meeting;
 - The meeting notice includes how members can participate remotely;
 - The public must be provided a way to remotely *hear, visually observe, and remotely address* the governing board via a two-way platform;
 - Before any action members participating remotely disclose whether any other adult is in the room at the remote location, and if so, the member's relationship to the individual;
 - A procedure for receiving and resolving requests for reasonable accommodations, noticed in the agenda.

Remote/Teleconferenced Meetings

AB 2449 (through January 1, 2026)

- Limitations:
 - Just cause limited to no more than two meetings per calendar year, per member;
 - For both, cannot be for a period of more than three consecutive months or 20 percent of the regular meetings for the body per calendar year; and
 - In the event of a disruption of the streaming of the meeting that prevents remote public comment, the governing body cannot take action on an agenda item until the disruption is cured.

Questions & Answers

Thank You

For questions or comments,
please contact:

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