

Subcommittees and the Brown Act

COUNTY OF SAN DIEGO INDEPENDENT REDISTRICTING COMMISSION

JANUARY 14, 2021, ITEM 7

Commission Can Appoint Subcommittees

- Nothing in statute prohibits the Commission from appointing subcommittees.
- But the statutory scheme governing the San Diego County Independent Redistricting Commission provides:

“The commission shall comply with the Ralph M. Brown Act”

General Rule

- Any committee or other body of a local agency created by charter, ordinance, resolution or formal action of a legislative body is itself a legislative body.
- Generally, this is the case regardless of whether the body is permanent or temporary, advisory or decisionmaking.
- This means that a “subcommittee” is covered by the Brown Act—and must comply with all notice, agenda, and public meeting requirements—unless an exception applies.

“Ad hoc” Subcommittees

- There is a specific exemption for an advisory committee which is comprised solely of less than a quorum of the members of the legislative body that created the advisory body.
- These are often referred to as “ad hoc” committees and are not covered by the Brown Act. This means that an ad hoc committee does not need to comply with notice, agenda, and public meeting requirements.
 - In other words, properly constituted “ad hoc” committees can meet privately and without notice to the public.

“Ad hoc” Subcommittees

- “Ad hoc” committees serve a limited or single purpose, are temporary, and are dissolved once their specific task is completed.
 - A common example are committees that are formed to interview candidates for a vacant position, and are dissolved once the interview process is complete.
 - Note of interest: the California Redistricting Commission is subject to the Bagley-Keene Open Meeting Act, which has different rules governing subcommittees. If an advisory body created by formal action of another body has only two members, it is not covered by the Bagley-Keene Act.

“Standing” Subcommittees

- The Brown Act exception does not apply if the advisory committee is a standing committee, as opposed to an ad hoc committee.
- A standing committee is a committee which has continuing jurisdiction over a particular subject matter (e.g., budget, finance, legislation) or if the committee’s meeting schedule is fixed by charter, ordinance, resolution or other formal action of the legislative body that created it.
 - Standing committees must comply with all requirements of the Brown Act, including notice, agenda, and public meeting requirements.
 - Standing committees would require the support of staff and legal counsel to facilitate compliance with the Brown Act.