



Public Comment 101



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Overview

- Public Comment at Meetings
- Public Comment Outside of Meetings
- Best Practices

Public Comment at Meetings

A member of the public has the right to speak:

- At a *regular* meeting: on *each and every* agenda item and generally on item of interest to the public
 - Including consent calendar and closed session items
- At a *special* meeting: on each agenda item *only*
- Before or during the Board's consideration of the item

Restrictions on Speech at a Board Meeting

- Content-based restrictions permitted
 - At regular meeting, must be within Board's jurisdiction
 - At special meeting, must be on agenda
- Viewpoint restrictions prohibited
 - E.g., cannot prohibit *criticism* of Director or staff
- Time, Place and Manner Restrictions
 - E.g., 5-minute time limit
- Board limited to:
 - Brief response to questions
 - Refer to staff for factual information
 - Request staff report back at future meeting
 - Direct staff to place item on the agenda

Public Outside Meetings

- Brown Act permits one-on-one meetings with staff or constituents
 - BUT: Watch out for serial meetings
 - BUT: Avoid prejudging matters where due process applies
- All electronic communications are subject to Public Records Act

Best Practices

- At meetings:
 - Consider not engaging with commentators even if “brief response”
 - If a response is desired, consider waiting until Board discussion
- Outside meetings:
 - Watch out for “well I talked to your colleagues...”
 - Emails/texts are subject to disclosure
 - Detailed discussion vs. listen/provide thoughts in meetings
 - IF due process applies, avoid prejudgment

Conclusion

- QUESTIONS?