

b. ROLES AND RESPONSIBILITIES

What is my role as a commission member?

The primary purpose of a commission is to serve as an advisory body to assist governmental bodies in the decision-making process. Commissions serve as a conduit for citizen input by gathering, analyzing and recommending options to the Board of Supervisors. Some commissions are mandated by Federal or State statute or established by County ordinance or resolution; others may be established by Joint Powers Agreement. Regardless of the establishing mechanism, the Board of Supervisors usually retains the final responsibility and authority for making policy decisions. The Planning and Personnel Commissions are exceptions and have the authority to take independent actions.

What does a commission member do?

Each commission shall have a set of by-laws outlining the mission, purpose and specific details on the functioning of the group. For most commissions there is typically an establishing ordinance, resolution, or legal mandate that outlines the scope and function of the commission. This is very useful in orienting members to the specific charge and focus of the assigned commission. New commission members should familiarize themselves with these documents. A County staff person is usually assigned to support the commissions' activities and is an excellent resource.

The Board of Supervisors has also adopted a resolution establishing standing rules and application and appointment procedures. This document is one that every commissioner should carefully review as it clarifies Board policies and roles and responsibilities of commissioners. (See Section 2)

Many commissions also have an annual list of goals and priorities that guide their work program for the year. Reviewing these goals and priorities will assist you in understanding the function of the commission you now serve; especially its authority, work programs and relationship to the Board of Supervisors, county staff and other commissions. The most productive and effective commissions are those whose members are clearly committed to fulfilling the mission and goals of their commission and focus on accomplishing the annual priorities.

◆ *Remember that being a commission member is not an honorary assignment, but rather an assignment of honor.*

Are there legal requirements I should know about?

Yes. One of your first assignments will be to familiarize yourself with the legal requirements relating to the conduct of “public business.” Commission meetings are by definition public meetings. With very few exceptions you are required by law to observe both the Brown Act, commonly called the open meeting law (See Section 3) and the Public Records Act. (See Section 4)

How does the Brown Act affect the meetings I attend, and how do I know if the requirements are being followed?

The following is a condensed version of the Brown Act “basics” to give you a sense of what you need to be aware of in your role as a commissioner. There is a more detailed discussion of the Brown Act in Section 3. Additionally, the staff person who supports your commission is aware of the Brown Act requirements and its application to commission meetings.

The Ralph M. Brown Act has regulated the conduct of meetings by the governing boards of local public agencies in California since 1953. The intent of the Brown Act is to “declare that the public commissions, boards and councils and the other public agencies in this state exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”

- All regular meetings must be noticed at least 72 hours (3 days) prior to the meeting. Agendas may also be forwarded to local media.
- Special meetings require public notice and the 24 hour posting of notice, as well as delivery of the notice to commission members and the media.
- Standing committee meetings must be similarly noticed.
- Ad hoc committee meetings that do not consist of a quorum do not have to be noticed.
- Notice of all meetings must be posted in a place that is easily accessible to the public 24 hours a day, 7 days a week.

- Actions (motion or vote) can only be taken on items that have been publicly noticed on the published agenda.
- The body can declare “urgency,” and therefore discuss an item not on the agenda at a regular meeting, if the need for immediate action came to the attention of the agency subsequent to posting of the agenda. This requires a vote of at least two-thirds of the members present (or all members if less than two-thirds are present) to determine there is the need for immediate action which cannot reasonably wait for the next regularly scheduled meeting.
- The body may discuss a non-agenda item at a regular meeting in open session if, by majority vote, the body determines the matter constitutes an emergency. Declaration of an “emergency” item means that the public safety is at risk.
- Meetings must provide for public input (open time) for both regular and special meetings.
- Meetings must be accessible to all without reservation.
- Meetings may be audio or video taped by any person as long as it is not disruptive.
- Generally, meetings must be held on a regularly scheduled basis and within the jurisdiction.
- Voting must be done by voice or hand – no secret ballots or proxy votes are permitted.
- No “straw votes” either in person, phone or e-mail or other methods are permitted. Serial conversations, by phone, e-mail, in person or other methods to determine action in advance are prohibited.

Taking the "Oath of Office"

Commission members may not participate or vote on matters before their appointed commission until the Oath of Office has been fully executed before an authorized County representative. (See Section 5)

What is a “Conflict of Interest” and how will I know if I have one?

Financial Conflicts of Interest

A conflict of interest applies when a decision may have a financial impact on personal income or assets of an individual or the personal income or assets of their spouse or dependent children. The conflict applies whether the financial impact is positive or negative and is “material” if it exceeds a certain dollar amount as set by the Political Practices Commission. (See Section 6) Depending on the nature of

his/her financial interest and other factors, a commission member may be disqualified from voting on a matter.

Additionally, commission members may not be financially interested in any contract made by themselves in their official capacity, or by any body or board of which they are members. Depending on the nature of a commissioner's financial interest in a contract, the entire commission could be disqualified from taking action on the item.

Any commissioner who is appointed by the Board of Supervisors, and where the commission makes recommendations to the Board, will have certain filing obligations under the Fair Political Practices Commission (FPPC) Conflict of Interest Code. You may have to file a Statement of Economic Interest with the State or with the Clerk of the Board. (See Appendix 6 for Marin County's filing requirements)

Commission members with questions regarding such financial conflicts of interest are encouraged to contact the FPPC hotline at: 866-ASK-FPPC.

Incompatible Activities and Offices

State Law provides statutory provisions against any officer or employee of a local agency from engaging in employment or any other activity which is in conflict with his or her public duties. An officer or employee must be notified by the public agency that his or her activities constitute a conflict of interest before the state law prohibitions are applied.

A public officer must also be aware of the doctrine of incompatibility. This issue arises when a public official holds two public offices simultaneously and a potential conflict or overlap in the functions or responsibilities of the two offices may be present. The central question is whether there exists a clash of duties or loyalties between the offices. If one office exercises a supervisory, auditory, appointive or removal power over the other then it may be improper for one person to continue to hold both offices.

Section 6 contains a pamphlet titled "Can I Vote" which is published by the California Fair Political Practices Commission and may help answer additional questions regarding conflict of interest issues.

What is Assembly Bill 1234 (Ethics Training) and who is required to take it?

AB 1234 applies to commission members who may receive compensation and/or expense reimbursement by the County. Pursuant to AB 1234, the County adopted revised Administrative Regulation No. 1 (AR No. 1) regarding reimbursement of expenses for County commissions, committees or boards. Please refer to Appendix 10 for the full text of the policy as it relates to commission members. Additionally, commission members listed in AR No. 1, and therefore covered under AB 1234, must complete Ethics Training every two years.