

CITY OF MESA  
EDUCATION AND WORKFORCE  
DEVELOPMENT ROUNDTABLE

Open  
Meeting  
Law

Conflict of  
Interest

Part 1.

Open Meeting Law



# Arizona Open Meeting Law

Arizona Revised Statutes

Title 38, Chapter 4, Article 3.1

A.R.S. § 38-431.09

"It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided."

# Definition of a "Public Body" under the Open Meeting Law

## A.R.S. § 38-431

"Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of...political subdivisions. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body.



# Open Meeting Law (OML)

## Private

Only in limited circumstances:  
Executive Session

Examples:  
Confidential Records, Legal Advice, Contract Negotiations

- No Legal Action Can Be Taken (Collective Decision, Commitment or Promise)

Public's business must be done in public.

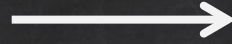
## Public

Properly noticed meeting with a posted agenda

"Meeting" if a quorum of nine is present

OML applies to subcommittees of the Roundtable

What  
actually is  
a meeting?



"Means the gathering, in person or through technological devices, of a quorum of the members of a public body at which they discuss, propose or take legal action" on a subject that is reasonably likely to come before the public body.

Traditional Meetings



Electronic Meetings



# Pitfalls in OML

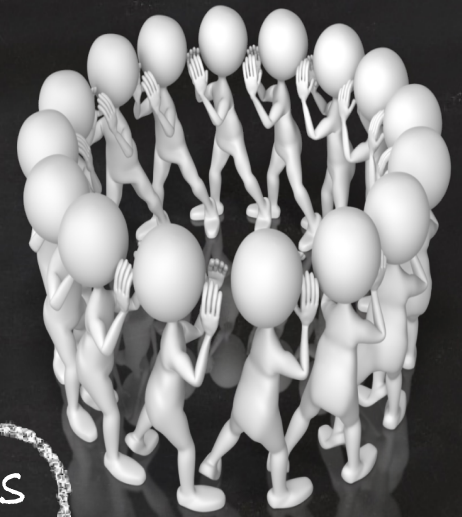
## 1. Social Events

- If a quorum is present at the social event, and members discuss topics that may reasonably require action, an OML violation may occur
- Best Practice: do not discuss Roundtable business or items that may come before the Roundtable with other members outside of a formal, noticed, and agendized meeting



# Pitfalls in OML

## 2. Serial Meetings



What is a serial meeting?

Series of gatherings or discussions (can be electronic) where less than a quorum is present.

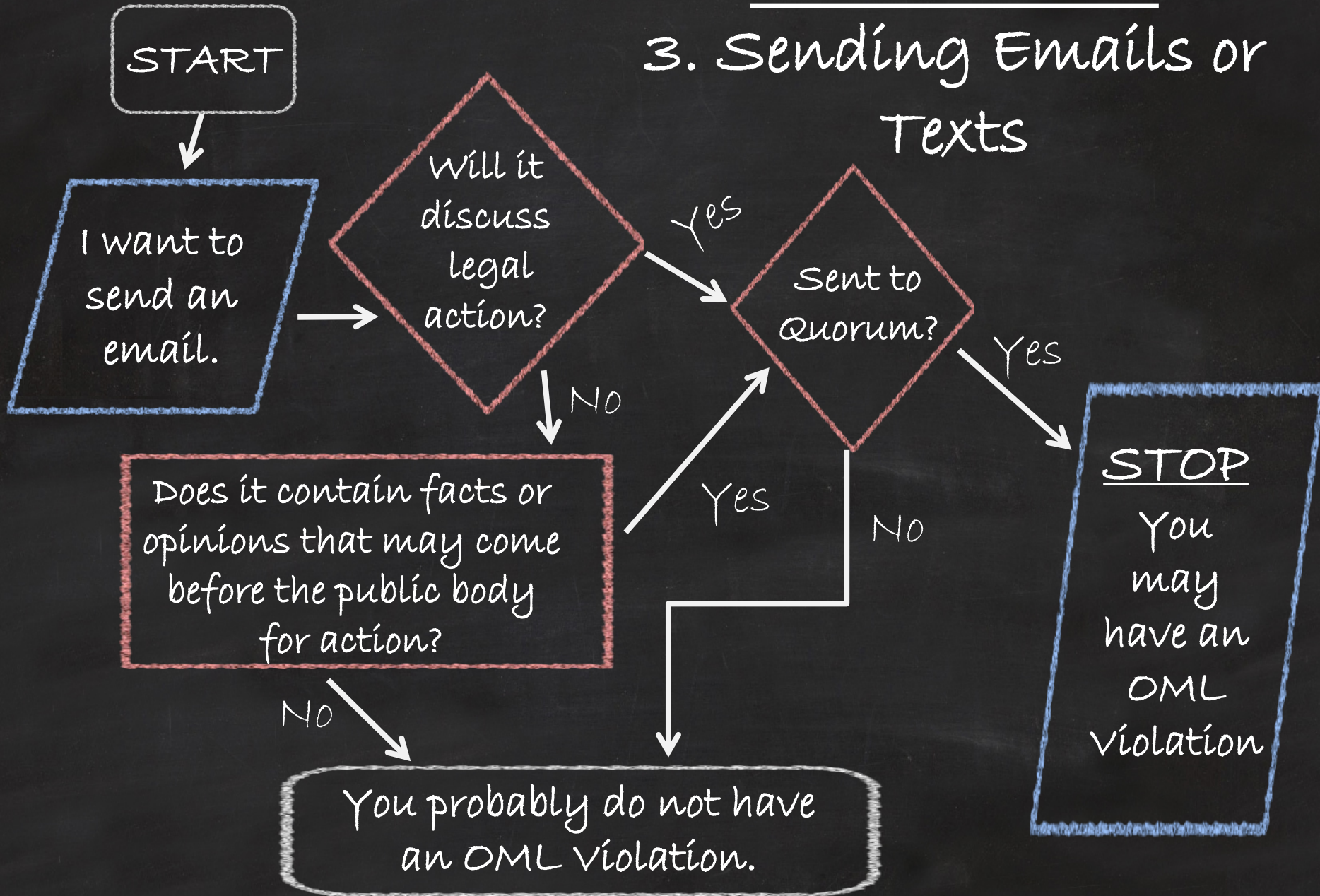
Later, the same discussion is had with other members of the public body.

If the same discussion is held with enough members (quorum), can violate the OML.



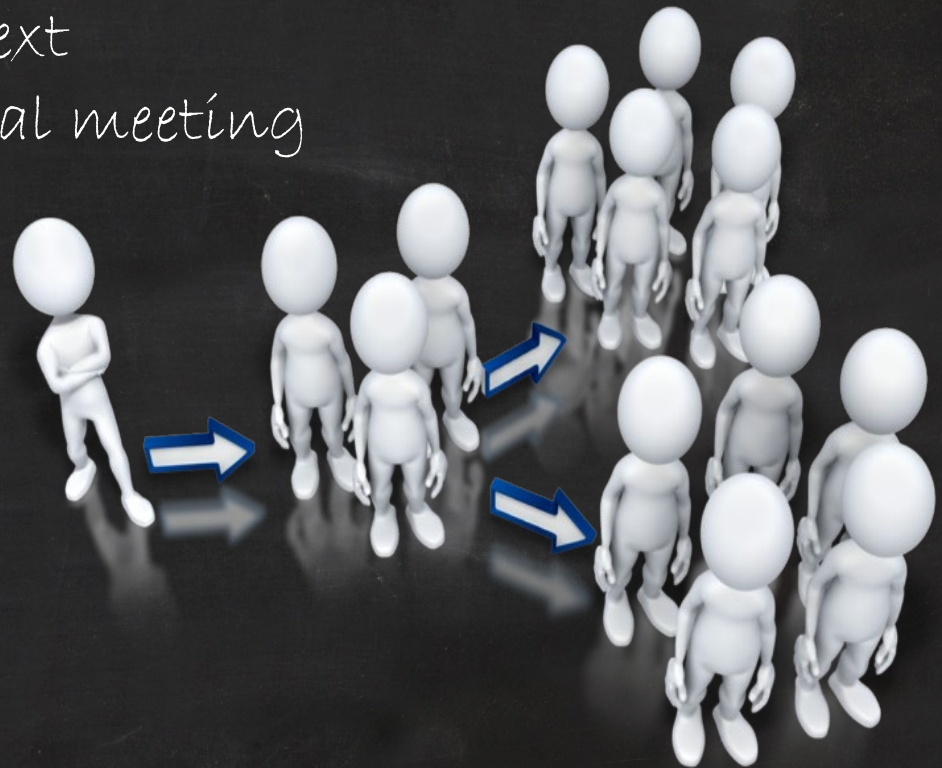
# Pitfalls in OML

## 3. Sending Emails or Texts



# Lesson: Be careful responding to emails and text messages.

- using "reply all" and forwarding emails may lead to OML trouble
- Mass texts or forwarding text messages can lead to a serial meeting in violation of the OML





# Pitfalls in OML

## 4. Social Media

You post comments about the public meeting on your private page—where you just happen to be “friends” with or follow other members of your public body

Possible  
OML  
Problems

- Be careful liking comments; re-tweeting
- Do not direct comments/tweets to Roundtable members

# Meeting Agenda

Date,  
Time  
and  
Place

Rule:

If no posted agenda  
24 hours in advance,  
no meeting

Public has right to  
attend a public  
meeting, does not  
have right to speak

Agenda must  
contain the  
matters to be  
discussed or  
decided, or say  
where a detailed  
agenda can be  
obtained



can we discuss matters not on  
the agenda?

No, must be  
reasonably  
related to an  
agenda item



# Violations of the OML

ACTIONS taken by the Roundtable are NULL and VOID.



The Attorney General or County Attorney may INVESTIGATE.

## Potential Penalties

- \$500 civil penalty each violation
- REMOVAL of a Roundtable member if the court makes a finding of intent
- Assess the Roundtable member with ALL COSTS awarded to the Plaintiff
- MAY NOT spend public monies for legal counsel



Part II.

CONFLICT OF  
INTEREST

# Conflict of Interest Law

## Arizona Revised Statutes

### Title 38, Chapter 3, Art. 8 and

### Mesa City Code 2-3-9

#### A.R.S. § 38-503

Any public officer who has, or whose relative has, a substantial interest in an issue before the Roundtable must declare a conflict and refrain from participating in any manner in such decision.

#### A.R.S. § 38-502

"Substantial interest" means any non-speculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest.



# Who Does It Apply To?

- You
- Your children, parents, grandchildren, grandparents, siblings (whole or half) and their spouses
- Your spouse and your spouse's parent, siblings and children

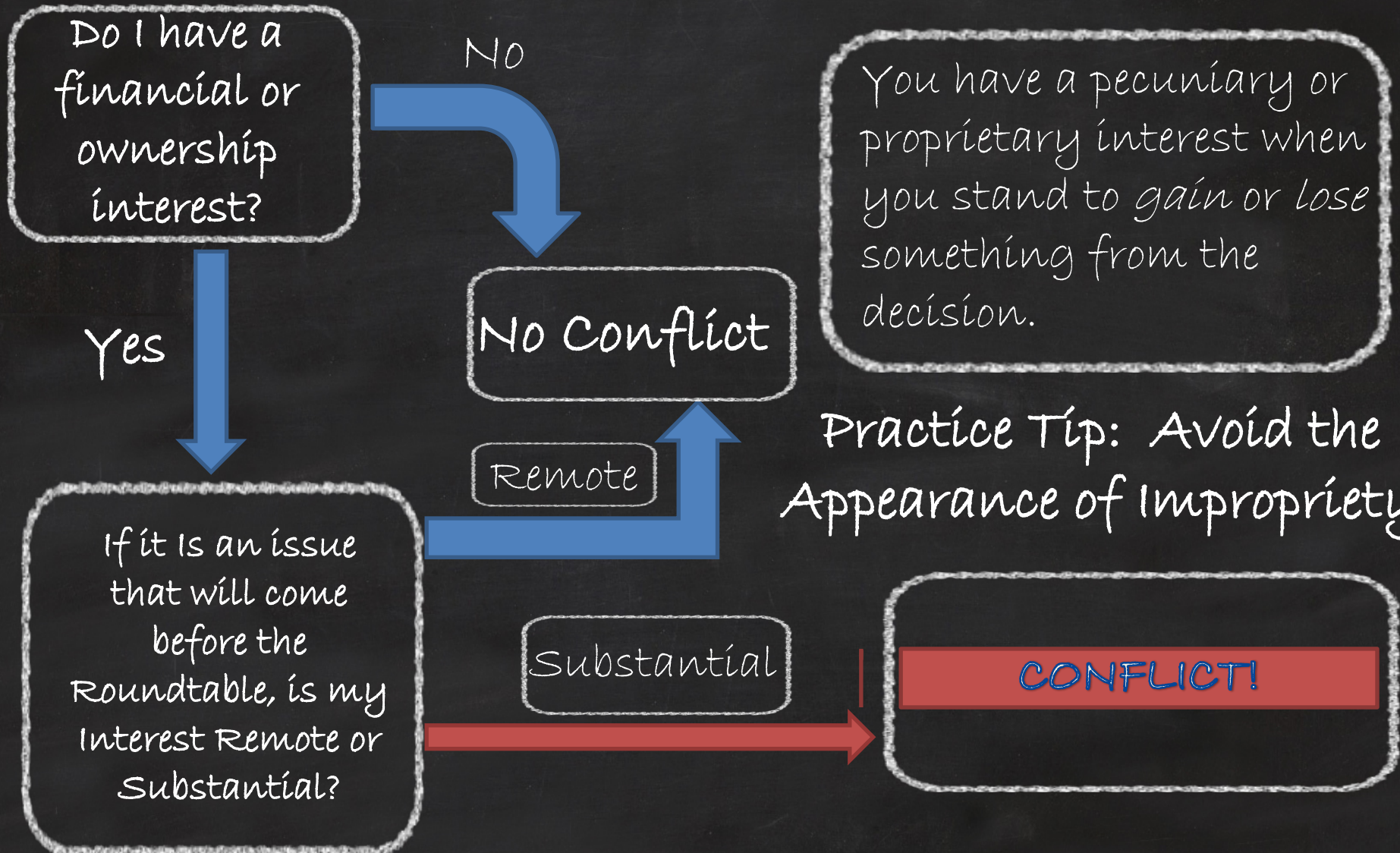


# Substantial vs. Remote Interest

- A substantial interest is any financial (pecuniary) or ownership (proprietary) interest in the issue (direct or indirect)
- A general feeling of sympathy or bias does not create a conflict
- Remote Interest
  - Certain economic interests are so remote they do not impermissibly influence a person's decisions or actions
  - Listed in ARS § 38-502(10)



# Do I have a Conflict of Interest?



You have a pecuniary or proprietary interest when you stand to gain or lose something from the decision.

Practice Tip: Avoid the Appearance of Impropriety

**CONFLICT!**

# Questions to Ask Yourself

- Could the decision affect either positively or negatively an interest of my family or myself?
- Is that interest pecuniary or proprietary?
- Is the interest something that is defined as remote under the statute?



# What do I do if I have a substantial interest?

Do not take part in the discussion or action

Withdraw from Participation

Make interest known in public records by explaining on the record you are withdrawing due to potential conflict

Complete a Public Officer Disclosure Form available in the City Clerk's Office

# What can happen if I violate the conflict of interest laws?

- CIVIL SUIT to enforce the law
- Court may award reasonable attorney's fees
- Class VI Felony for INTENTIONALLY or KNOWINGLY violating the law
- Class I Misdemeanor for RECKLESSLY or NEGLIGENTLY violating the law
- Person found guilty might be required to FORFEIT their public office



# Questions

Please Contact the City Attorney's Office

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