

City of Mesa
2024 Housing and Community
Development Advisory Board
TRAINING

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.

What is a Public Body for the Purposes of 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...this state or 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

Private

Only in limited circumstances:
Executive Session

Examples:
Confidential Records, Legal Advice, Contract Negotiations

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

Public's business must be done in public.

Public

Properly noticed meeting with a posted agenda

Lawful Meeting if a quorum is present

Sounds good,
right? But what
actually is a
meeting?



A meeting occurs ANY
TIME a quorum of the
public body discusses,
proposes, or takes legal
action on a subject
that is reasonably
likely to come before
the committee.

Traditional Meetings



Electronic Meetings



Pitfalls in OML

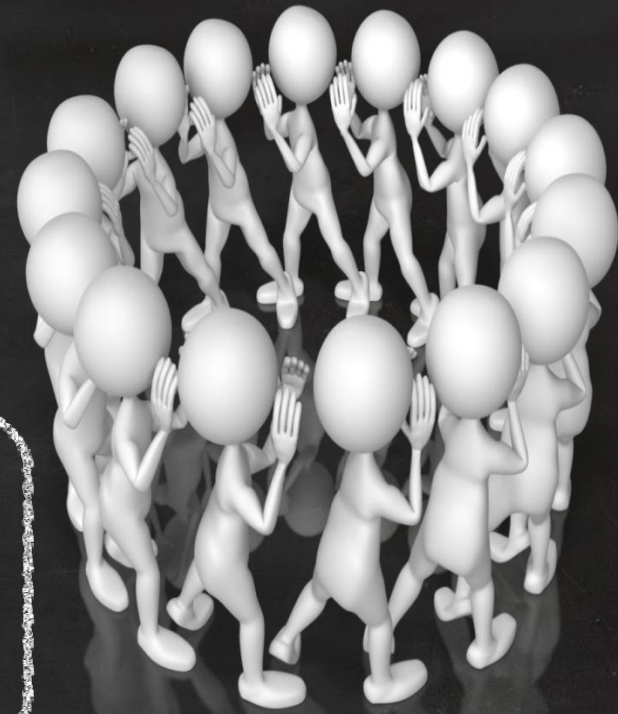
1. Social Events

- ✓ If quorum present post the event
- ✓ Identify date, time, location and purpose
- ✓ State no legal action will be taken.



Pitfalls in OML

2. Serial Meetings



What is a serial meeting?

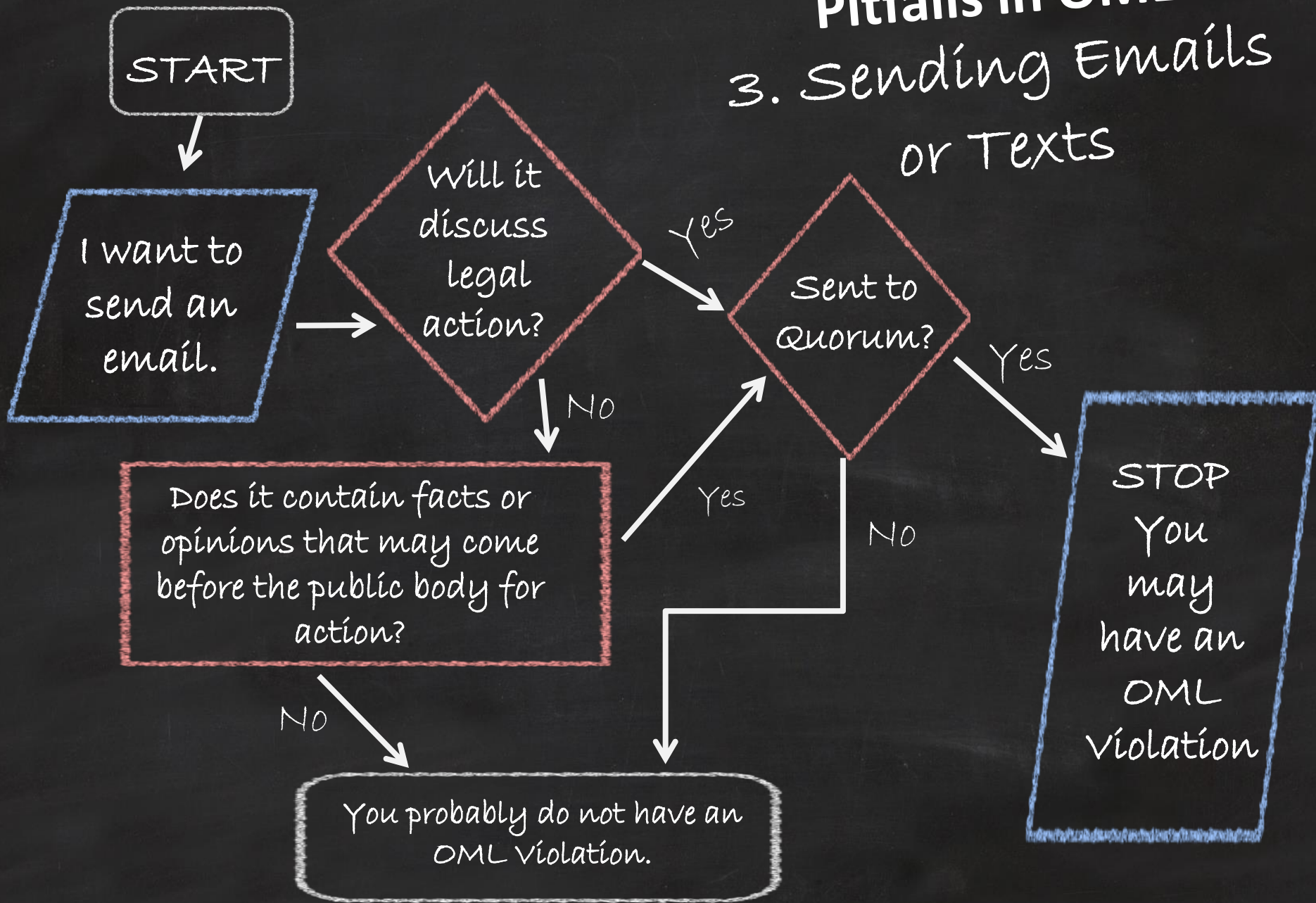
Less than a quorum present?

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

Enough to constitute a quorum?

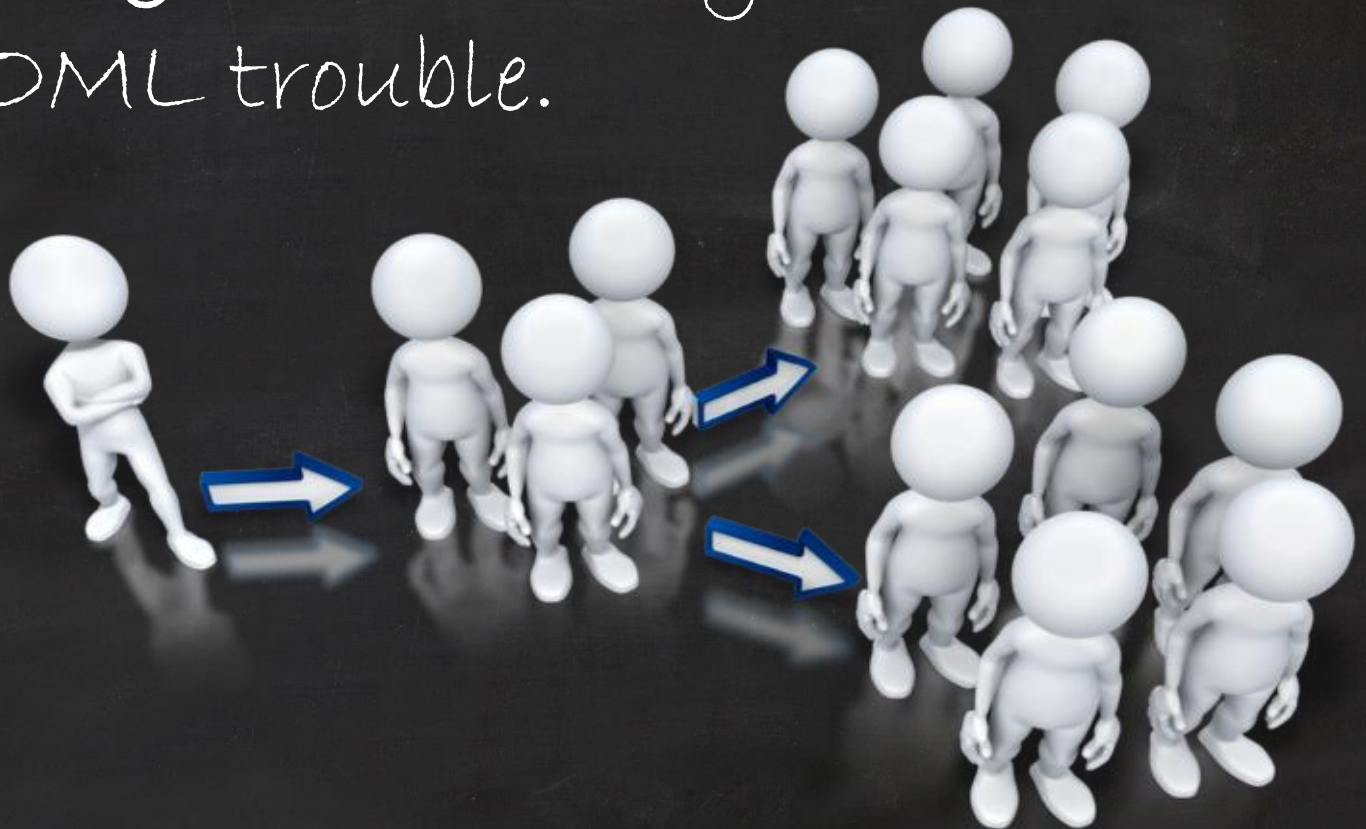
Pitfalls in OML

3. Sending Emails or Texts



Lesson: Be careful responding to emails.

- Using "Reply All" & Forwarding Emails may lead to OML trouble.



Pitfalls in OML

4. Social Media

(illustrations of emerging issues)

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

OML
problems?

- Not necessarily...
- Be careful “Liking” comments
 - Do not direct comments to other committee members

Meeting Agenda

Date,
Time
and
Place

Agenda
must be
posted 24
hrs before
meeting

Matters to be
discussed or
decided (or
where a detailed
agenda can be
obtained).

Public
Notice
Calendar

can we discuss matters
not on the agenda?

Nope, must be
reasonably
related to
agenda item



VIOLATIONS

ACTIONS taken by the Committee are NULL and VOID.



The Attorney General or County Attorney INVESTIGATES.

PENALTIES...

✓ \$500 civil penalty each violation

✓ REMOVAL of a committee member if the court makes a finding of intent

✓ Assess the officer with ALL COSTS awarded to the plaintiff

✓ MAY NOT spend public monies for legal counsel



Part II.

CONFLICT OF
INTEREST

Conflict of Interest Law

A.R.S. § 38-503

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

A.R.S. § 38-502

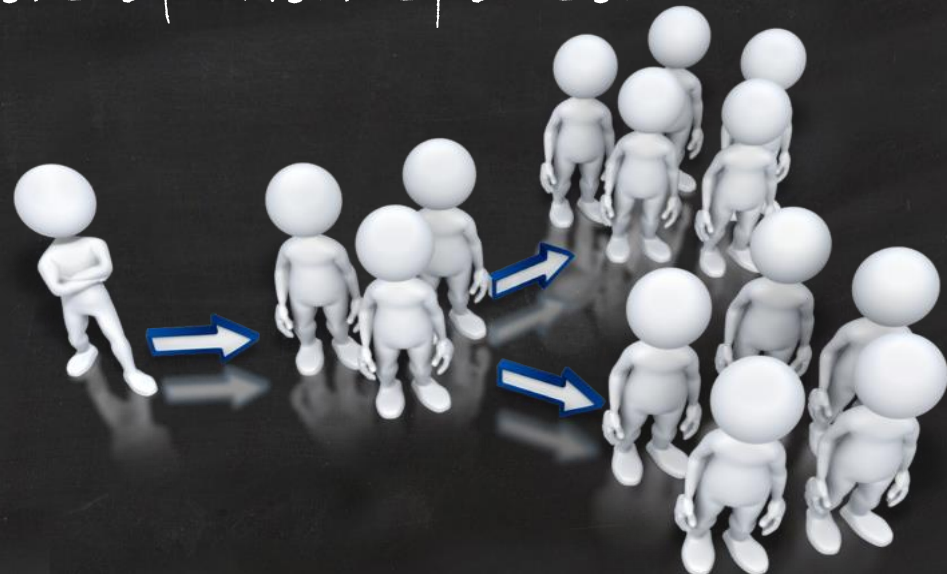
"Substantial interest" means any nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

Who Does It Apply To?

- Board/committee members

AND

- Their spouse, children, parents, in-laws, grandchildren, grandparents, step children, step parents, brothers and sisters (whole, half or step), or brothers and sisters of their spouse.



Does Member have a Conflict of Interest?

Do they have a "pecuniary" or proprietary interest?

No

No Conflict

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

Yes

If it is an issue that will come before the Committee, is their interest Remote or Substantial?

Remote

Substantial

Practice Tip: Avoid the Appearance of Impropriety

CONFLICT!

What does the Member do if they have a substantial interest?

DO NOT take part in the discussion or action

MAKE THE INTEREST KNOWN in public records

Complete a Public Officer Disclosure Form

What happens if Member violates 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 his PUBLIC OFFICE

QUESTIONS

