



Closed Session Confidentiality

Legal and Claims Committee

Item 6b

October 8, 2013

Requirements for Closed Session Confidentiality

- Ralph M. Brown Act—Gov. Code § 54963
- MWD Administrative Code § 2105 - Closed Session Procedure
- MWD Administrative Code § 7107- Ethics Policy

Confidentiality Requirement

- Matters discussed in closed session are confidential and that confidentiality must be protected
- Release of confidential information obtained in closed session to persons not entitled to participate in the closed session (including a director's appointing agency), requires Board approval

Confidential Information Defined

A communication made in a closed session that is *specifically* related to the basis for the closed session

Authorized Disclosure of Closed Session Information

- Disclosure of information acquired at a closed session that is *not* confidential information
- Information about a closed session meeting to a director *who could have* attended the closed session meeting;

Authorized Disclosures--continued

- Expression of an opinion on the propriety or legality of closed session actions, including the nature and extent of the illegal or potentially illegal action;
- Confidential inquiries or complaints to a district attorney or grand jury;
- Disclosures made under whistleblower statutes in the Labor Code and Government Code.

Consequences of Disclosure

Violation: Administrative Code

- Violations by director or department head referred to Executive Committee for investigation and action
- Violations by staff member referred to department head for investigation and consideration of appropriate action under existing disciplinary procedures

Appropriate Actions for Violations by Directors MAY include:

- A letter of reprimand;
- A letter of reprimand with a copy to the appointing agency;
- Barring a director from future closed sessions;
- Removal from one or more committee assignments;
- A request to the appointing agency for replacement of the Board Member;

Other Appropriate Actions

- Seek injunctive relief to prevent future disclosure of confidential information;
- Referral to the grand jury; and
- Request to prosecutor to file a misdemeanor charge for willful or corrupt misconduct in office.



Questions?