

CAMP MEEKER RECREATION AND PARK DISTRICT
BOARD OF DIRECTORS STUDY SESSION
AGENDA
APRIL 1, 2014
7:00 P.M.

DISTRICT OFFICE (NEXT TO FIRE HOUSE)
CAMP MEEKER, CA 95419

I. CALL TO ORDER

II. ROLL CALL

III. AGENDA APPROVAL

IV. PUBLIC COMMENT

This time is set aside to receive comments from the public regarding matters of general interest, not on the agenda; however, the right to address the Board may be limited if a Board committee has already considered the item at a public meeting. This public comment period is limited to 30 minutes. Speakers are limited to three (3) minutes each.

V. STUDY SESSION: BROWN ACT, LEGAL REQUIREMENTS, PUBLIC RECORDS ACT, AND DIRECTOR ROLE AND RESPONSIBILITIES

DESCRIPTION: Each Director must know, understand and conform to the many legal requirements imposed upon the District and the individuals elected to serve on the Camp Meeker Recreation and Park Board. Various aspects of the Brown Act, the Public Records Act and the role and responsibilities of individual directors will be addressed.

PROPOSED ACTION: No action to be taken. Study session only.

VI. ADJOURNMENT

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*OVERVIEW OF THE BROWN ACT
STUDY SESSION
CAMP MEEKER RECREATION &
PARK DISTRICT
APRIL 2014*

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HISTORY

The Brown Act was passed and signed into law by Republican Governor Earl Warren in 1953. The Brown Act was introduced by Ralph M. Brown (D) of Modesto.

Ralph Brown and Michael Harris, a journalist for the SF Chronicle were instrumental in passing the Act. Michael Harris, a young ambitious reporter, had just published a 10-part series on the secrecy practiced by supervisors, council members and school districts in the Bay Area.

Ralph Brown lent a sympathetic ear to the cries against secrecy. In 1953, the California legislature was still part-time. In addition to his part-time job as assemblyman, Brown also was a practicing lawyer. As such, he often attended board of supervisor, council and other public agency meetings on behalf of his clients. On more than one occasion he attended a meeting, an issue was decided, and he would learn the following day the group had met in secret and changed their mind.

The original Act was only 2 ½ pages. Today, the Act is about 45 pages long.

DECLARATION

The intent of the Act is defined in its preamble:

In enacting this chapter, the Legislature finds and declares 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.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. (Government Code section 54950.)

WHO MUST COMPLY

The Brown Act covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. Specifically, the Act applies to “legislative bodies” of “local agencies”. Camp Meeker Recreation & Park District is an agency within the ambit of the Act.

Individual decision makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads are not subject to the Brown Act since such assemblies are not those of a legislative body. (*See Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870.)

Ad Hoc Committees

A temporary advisory committee **comprised solely of less than a quorum** of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act. (Government Code section 54952(b).)

Standing Committees

“[S]tanding committees of a legislative body, irrespective of their composition, which have continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body” are subject to the Brown Act. (Government Code section 54952(b).)

Examples

- ❖ An advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.

Does the Brown Act apply? No. The committee is temporary, comprised of less than a quorum, and serves a single purpose.

- ❖ A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise.

Does the Brown Act apply? No. The committee has not been established by formal action of the legislative body.

- ❖ During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager.

Does the Brown Act apply? Maybe. The direction from the city council might be regarded as a formal action of the body notwithstanding that the city manager controls the committee.

MEETINGS

The Brown Act only applies to meetings of local legislative bodies. The Brown Act defines a meeting as, “...**any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.**” (Government Code section 54952.2.)

Brown Act gatherings include regular meetings, special meetings, emergency meetings, and adjourned meetings.

- “Regular meetings” are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.
- “Special meetings” are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act’s notice requirements for special meetings.
- “Emergency meetings” are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.
- “Adjourned meetings” are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.

Exceptions

The following are exceptions to the requirements of the Brown Act:

1. Individual contacts. The Brown Act does not limit a legislative body member acting on his or her own.
2. Conferences. A legislative body majority is allowed to attend a conference or other similar gathering open to the public that addresses issues of general interest to the public or to public agencies.
3. Community Meetings. A legislative body majority is allowed to attend an open and publicized meeting held by another organization to address a topic of local community concern. *Caution: Although the Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization, the Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization.*

Example: “I see we have four distinguished members of the city council at our meeting tonight,” said the chair of an Environmental Action Coalition. “I wonder if they have anything to say about the controversy over enacting a slow growth ordinance.”
4. Other Legislative Bodies. A majority of a legislative body may attend an open and publicized meeting of another body of the local agency or a legislative body of another local agency. Example: Testifying before the Senate Local Government Committee.
5. Standing Committees. A majority of a legislative body may attend an open and noticed meeting of a standing committee. *Caution: However, the legislative body members who are not members of the standing committee attend only as observers (meaning they cannot speak or otherwise participate in the meeting).*
6. Social or Ceremonial Events. A majority of a legislative body may attend a purely social or ceremonial occasion, but again, cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the local agency.

Serial Meetings

The Brown Act provides that “[a] majority of the members of a legislative body shall not, outside a meeting...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” (Government Code section 54952.2(b)(1).)

The serial meeting may occur either by a “daisy-chain” or a “hub-and-spoke” sequence.

- ❖ In the daisy-chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated or taken action on an item within the legislative body's subject matter jurisdiction.
- ❖ The hub-and-spoke process involves, for example, a staff member (the hub) communicating with members of a legislative body (the spokes) one-by-one for a decision on a proposed action.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague or appropriate staff about the local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body." (Government Code section 54952.2(b)(2).)

The Brown Act has been violated however, if several one-on-one meetings or conferences leads to a discussion, deliberation or action by a majority.

Examples:

- ❖ A phone call from a lobbyist was received by a legislative body of a local agency.

The lobbyist stated, "Say, I need your vote for that project in the south area. How about it?"

The Board Member replied, "Well, I don't know. That's kind of a sticky proposition. You sure you need my vote?"

The lobbyist replied, "Well, I've got 2 other Board Members lined up and another vote leaning. With you I'd be over the top."

Any violations? The lobbyist has not violated the Brown Act, but is facilitating a violation. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members' positions by asking "you sure you need my vote?"

- ❖ The mayor sat down across from the city manager. "From now on," he stated, "I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don't want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting."

Any violations? No. Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a

matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.” (Government Code section 54952.2(b)(2).)

- ❖ “Thanks for the information,” said Council Member Kim. “These zoning changes can be tricky, and now I think I’m better equipped to make the right decision.”

“Glad to be of assistance,” replied the planning director. “Any idea what the other council members think of the problem?”

Any violations? Yes. The planning director should not ask, and the member should not answer. A one-on-one meeting that involves communicating the comments or position of other members violates the Brown Act.

- ❖ The agency’s web site includes a chat room where agency employees and officials participate anonymously and often discuss issues of local agency business. Members of the legislative body participate regularly.

Any violations? Yes. The web site is a technological device that may serve to allow for a majority of members to discuss, deliberate or take action on matters of agency business.

- ❖ A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting.

Any violations? No, the Brown Act expressly allows this kind of communication, through the members should avoid discussing the merits of what is to be taken up at that meeting.

- ❖ “Reply to all”. Particular care should be exercised when staff briefings occur by email because of the easy of using the “reply to all” button that may inadvertently result in a Brown Act violation.

Informal Gatherings

Often members are tempted to mix business with pleasure—for example, by holding a post meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act. (Government Code section 54954.2(b).)

Example: Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat the corner window, fronting on Main and Broadway, to show they

had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues. But it is the kind of situation that should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive's presence in no way lessens the potential for a violation of the Brown Act.

Location

The Brown Act generally requires all regular and special meetings, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction. (Government Code section 54954(b).) The Act provides for limited exceptions.

AGENDAS, NOTICES, AND PUBLIC PARTICIPATION

AGENDAS

Every regular meeting of a legislative body of a local agency—including advisory committees, commissions, or boards, as well as standing committees of legislative bodies—must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least **72 hours before the regular meeting** in a location “freely accessible to members of the public.” (Government Code section 54954.2.) The California Attorney General has interpreted “freely accessible” to require posting in locations accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend. (78 Ops.Cal.Atty.Gen. 327 (1995)) Posting only on the internet is insufficient since there is no universal access to the internet. However, Government Code section 54954.2(a)(1) mandates posting on the agency’s website if the local agency has one.

The agenda must state a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. (Government Code

section 54954.2(a).) Every agenda for a regular meeting must allow members of the public to speak on any item of interest, so long as the item is within the subject matter jurisdiction of the legislative body. (Government Code section 54954.3(a).)

No action or discussion may be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights. (Government Code section 54954.2(a).)

The Brown Act specifically provides three situations in which a legislative body can act on an item not on the agenda:

1. When a majority decides there is an “emergency situation”;
2. When 2/3 of the members present determine there is a need for immediate action and the need to take action came to the attention of the local agency subsequent to the agenda being posted; and
3. When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier. (Government Code section 54954.2(b).)

CLOSED SESSIONS

Private discussions among a majority of a legislative body are prohibited, unless expressly authorized under the Brown Act. It is not enough that a subject is sensitive, embarrassing, or controversial. (Government Code section 54962.)

In general, the most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the agency or compromise the privacy interests of employees.

Meetings of a legislative body are either fully open or fully closed. Closed sessions may involve only the members of the legislative body and only agency counsel, management and support staff, and consultants necessary for consideration of the matter that is the subject of closed session. Individuals who do not have an official role in advising the legislative body on closed session subject matters must be excluded from closed session discussions.

Topics:

1. Litigation (existing, threatened, or potential initiation by the local agency). (Government Code 54956.9.)
2. Real Estate Negotiations. (Government Code section 54956.8.)
3. Public Employment & Personnel Matters. (Government Code section 54957(b).)
4. Labor Negotiations. (Government Code section 54957.6.)
5. License Applicants with Criminal Records. (Government Code section 54956.7.)
6. Public Security. (Government Code section 54957(a).)

CONFIDENTIAL

The Brown Act prohibits the disclosure of confidential information acquired in a closed session by any person present. (Government Code section 54963.)

REPORTING

Prior to holding a closed session, the legislative body of the local agency must disclose, in an open meeting, the item or items to be discussed in the closed session. (Government Code section 54957.7(a).) After a closed session, the legislative body must reconvene in open session before adjournment and must make any required disclosures of action taken in the closed session. (Government Code section 54957.7(b).) Required disclosures depend on the subject-matter of the closed session.

The legislative body must either orally or in writing, publicly report any action taken in closed session and the vote or abstention on that action of every member present. (Government Code section 54957.1.)

REMEDIES

Violations of the Brown Act can lead to invalidation of an agency's action, payment of a challenger's attorney's fees, public embarrassment, and even criminal prosecution.

INVALIDATION

A local agency's action taken in violation of the Brown Act is not automatically invalid. (*See Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547). Any interested person may seek to invalidate certain actions of a legislative body on the ground that they violate the Brown Act. (Government Code section 54960.1.) Actions are limited to: open meetings, tax and assessment meetings, special meetings, emergency proceedings, meeting agendas, and posting of closed session items. (Government Code section 54960.1(a).)

CIVIL ACTION TO PREVENT FUTURE VIOLATIONS

Any interested person can file a civil action asking the court to:

- Stop or prevent violation or threatened violations of the Brown Act by members of the legislative body of a local agency;

- Determine the applicability of the Brown Act to action or threatened future action of the legislative body;
- Determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law; or
- Compel the legislative body to tape record its closed sessions. Government Code section 54960(a).

COSTS AND ATTORNEY'S FEES

Someone who successfully invalidates an action in violation of the Brown Act or who successfully enforces one of the Brown Act's civil remedies may seek court costs and reasonable attorney's fees. Government Code section 54960.5. An award of costs and fees is not mandatory, but is left to the trial court's discretion. (*See Frazer v. Dixon Unified School Dist.* (1993) 18 Cal.App. 4th 781). However, there is case law suggesting that absent special circumstances, the court must award attorney's fees. (*See Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors* (2003) 112 Cal.App.4th 1313, 1334.)

CRIMINAL COMPLAINTS

A violation of the Brown Act by a member of the legislative body who acts with improper intent is punishable as a misdemeanor. Government Code section 54959. The requirements are (1) an overt act; and (2) that the member intended to "deprive the public of information to which the member knows or has reason to know the public is entitled" by the Brown Act.

*OVERVIEW OF THE PUBLIC
RIGHTS ACT
STUDY SESSION
CAMP MEEKER RECREATION &
PARK DISTRICT
APRIL 2014*

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BACKGROUND AND PURPOSE

The California Public Records Act (CPRA) was enacted in 1968 to establish that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Government Code section 6250.)

Underlying the CPRA is the notion that government should be accountable for its actions and in order to verify accountability, individuals must have access to government files. (*Cal.State.Univ. v. Superior Court* (2001) 90 Cal.App.4th 810, 823.)

A competing concern also underlying the CPRA, however, is the privacy of individuals whose personal affairs are recorded in government files. (*Cal.State.Univ. v. Superior Court* (2001) 90 Cal.App.4th 810, 823.)

Consequently, the CPRA embodies two fundamental yet competing interests:

- (1) prevention of secrecy in government; and
 - (2) protection of individual privacy.
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RECORDS SUBJECT TO INSPECTION

“Public records” that are subject generally to inspection and copying under the CPRA including writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Government Code sections 6250 to 6276.48.)

Because the underlying purpose of the Act is to assure broad access to public records as defined above, when responding to a request the local agency must allow access to the record

unless it can identify an exemption within the Act that would justify nondisclosure of the information.

Specific Exemptions:

- Architectural and Official Building Plans. (Government Code section 6254(k).)
- Attorney Client Communications and Attorney Work Product. (Government Code section 6254(k).)
- Code Enforcement Records. (Government Code section 6254(f).)
- Drafts. The Act exempts from disclosure “[p]reliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.” (Government Code section 6254(a).)
- Identity of Informants. (Evidence Code section 1041.)
- Law Enforcement Records. (Government Code section 6254(f).)
- Library Circulation Records. (Government Code section 6254(j).)
- Licensee Financial Information. (Government Code section 6254(n).)
- Medical Privacy Laws. (Evidence Code section 990, *et seq.*, Civil Code section 56, *et seq.*)
- Physician/Patient Privilege. (Evidence Code sections 992, 994.)
- Official Information Privilege. “Official Information” includes: information that is protected by a state or federal statutory privilege; or information, the disclosure of which is against the public interest, due to necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.” (*White v. Superior Court* (2002) 102 Cal.App.4th Supp. 1.)
- Pending Litigation or Claims. The Act exempts from disclosure “[r]ecords pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to [the California Government Claims Act] until the pending litigation or claim has been finally adjudicated or otherwise settled.” (Government Code section 6254(b).)
- Personal Contact Information. (Government Code section 6255(a).)
- Posting Personal Information of Elected/Appointed Officials on the Internet. (Government Code section 6254.21(f).)
- Personnel Records. (Government Code section 6254(c).)

- Public Contracting Documents (e.g. bids or proposals) may need to be disclosed. (*California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810.)
- Real Estate Appraisals and Engineering Evaluations while the acquisition or prospective contract is pending. (Government Code section 6254(h).)
- Recipients of Public Services. (Welfare and Institutions Code section 18909.)
- Taxpayer Information. (Government Code section 6254(i).)
- Trade Secrets and Other Proprietary Information. (Government Code section 6254(k).)
- Utility Customer Information. (Government Code section 6254.16.)
- Public Interest Exemption. The Act establishes a “public interest” or “catchall” exemption that permits local agencies to withhold a record if the agency can demonstrate that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. (Government Code section 6255.)
- Deliberative Process Privilege. The deliberative process privilege is based on the policy of protecting the decision-making processes of government agencies, and the notion that access to a broad array of opinions and the freedom to seek all points of view, to exchange ideas, and to discuss policies in confidence are essential to effective governance in a representative democracy. (Government Code section 6255.)

PROCEDURE AND DEADLINES

There are two ways to gain access to a public record—inspecting the record at the local agency’s offices or obtaining a copy from the local agency. It is the requester’s decision as to which procedure to take to obtain access.

A public records request may be made in writing or orally, in person or by phone. (*See Los Angeles Times v. Alameda Corridor Transportation Authority* (2001) 88 Cal.App.4th 1281. A local agency can require an oral request be made in writing and it is strongly suggested to do so to keep an accurate record.

Under no circumstances should a local agency simply not respond to a request. Even if the request does not reasonably describe an identifiable record, the requested record does not exist,

or the record is exempt from disclosure, the agency must respond. (Government Code section 6253.)

- ❖ Inspection: A requester may inspect public records during the local agency's regular office hours. (Government Code section 6253(a).)
- ❖ Copies: If a copy of a record has been requested, the local agency generally must provide an exact copy except where it is "impracticable" to do so. (Government Code section 6253(b).)

Content of the Request

A public records request must reasonably describe an identifiable record or records. (Government Code section 6253(b).) It must be focused and specific and clear enough so that the agency can decipher what record or records are being sought. (*See Cal. First Amend. Coalition v. Superior Court* (1998) 67 Cal.App.4th 159.)

If a request is not clear or is overly broad, the local agency still has a duty to assist the requester in reformulating the request to make it more clear or less broad. (Government Code section 6253.1.) To assist the requester, a local agency must:

1. Assist the requester in identifying records that are responsive to the request or the purpose of the request, if stated;
2. Describe the information technology and physical location in which the records exist; and
3. Provide suggestions for overcoming any practical basis for denying access to records. (Government Code section 6253.1(a)(1)-(3).)

An agency may satisfy its duty to assist the request if it gives the requester an index of records. (Government Code section 6253.1(d)(3).) Ordinarily an inquiry into a requester's purpose in seeking access to a public record is inappropriate, but such an inquiry may be proper if it will help assist the requester in making a focused request that reasonably describes identifiable records. (Government Code sections 6257.5, 6253.1(a).)

Timing

❖ Responding to **Request**

Timing is critical. A local agency must respond promptly, but no later than ten calendar days from receipt of the request, to notify the requester whether records will be disclosed. (Government Code section 6253(c).) If the request is received after business hours or on a weekend or holiday, the next business day will be considered the date of receipt. If the tenth day falls on a weekend or holiday, the next business day is considered the deadline for responding to

the request. (Civil Code section 11.) However, the time limit for responding to the request is not necessarily the same as the time within the records must be disclosed.

The ten days may be extended for a period of up to 14 *additional* calendar days because of the need to:

1. Search for and collect the requested records from field facilities or other establishments separate from the office processing the request;
2. Search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request;
3. Consult with another agency having substantial interest in the request, or among two or more components of the local agency with substantial interest in the request; or
4. Compile data, write programming language or to construct a computer report. (Government Code section 6253(c)(1)-(4).)

❖ **Disclosure of Records**

No definite timeline exists for disclosing the public records. The Act provides that records must be provided “promptly” and that nothing “shall be construed to permit an agency to delay or obstruct the inspection or copying of public records”. (Government Code sections 6253(b)(d).)

Fees

The local agency may charge a fee for the direct costs of duplicating a record when the requester is seeking a copy. (Government Code section 6253(b).)

REMEDIES

Any person may file a civil action for **injunctive** or **declaratory relief** or **writ of mandate** to enforce his or her right to inspect or receive a copy of any public record under the Act. (Government Code section 6258.) In other words, a person cannot file for money damages.

The Act does not contain a specific time period in which the action must be filed. However, the action still must be filed in a manner consistent with traditional actions for injunctive, declaratory relief, or writ of mandate and would be subject to any limitations periods or equitable concepts such as laches, equitable estoppel, etc.

Attorney Fees and Costs

If the plaintiff prevails in the litigation, the judge must award court costs and reasonable attorney fees to the plaintiff. (Government Code section 6259(d).) A plaintiff will be considered the prevailing party if the lawsuit results in the disclosure of some or all of the requested records. Plaintiff will likely be considered the prevailing party even when he or she has only achieved a partial victory in the lawsuit. (See *Los Angeles Times v. Alameda Corridor Transportation Authority* (2001) 88 Cal.App.4th 1381.)