

Open and Public Meetings Act

A Summary of Key Provisions for Legislators | April 2017



The Open and Public Meetings Act (OPMA) requires that members of a public body be "provided with annual training on the requirements of [the Open and Public Meetings Act]" (Section 52-4-104). This document is intended to meet that requirement and to help legislators understand the OPMA. This summary is intended for a state legislative audience and does not exhaustively address requirements for other public bodies. Defined terms are bolded throughout and defined at the end of the document.

OPMA states that its goal is to ensure that the state, its agencies, and its political subdivisions deliberate and take action openly (Section 52-4-102).

Public Notice (Section 52-4-202)

A public body is required to provide public notice of a meeting at least 24 hours before the meeting. The public notice is required to:

- specify the date, time, and place of the meeting;
- include an agenda that lists specific topics the public body will consider;
- be posted on the Utah Public Notice Website and at the location of the meeting; and
- be provided to a newspaper or local media correspondent.

A public body may discuss an item raised by the public that is not listed on the agenda but may not take final action on the item at the meeting.

Minutes and Recordings (Section 52-4-203)

- A public body is required to keep written minutes and a recording of all meetings. However, a recording is not required for a site visit if no vote or action is taken by the public body.
- Draft minutes are required to be made available to the public within 30 days after the meeting.
- Within three business days after a public meeting, a recording of the open portions of the meeting are required to be posted on the Utah Public Notice Website.
- Within three business days after approving written minutes, the approved minutes and any public materials distributed at the meeting are required to be:
 - posted on the Utah Public Notice Website; and
 - made available at the public body's office.

2017 Amendments to OPMA

S.B. 97- Public Meeting Minutes Amendments

- Allows a **public body** to satisfy a requirement that its minutes include the substance items discussed in the meeting by publishing minutes online that provide links to the recording for each matter discussed at the meeting.
- Modifies a provision relating to the availability of approved minutes and public materials that are available to the public at the **meeting**.

Now subject to OPMA:

- Governmental nonprofit entities (H.B. 55)
- Public school membership associations (H.B. 413)
- Metro townships (clarification; S.B. 138)

Now exempt from OPMA:

- Economic Development Legislative Liaison Committee (H.B. 25)

Closed Meetings (Sections 52-4-204 and 52-4-205)

A public body may hold a closed meeting only for certain reasons, including the discussion of:

- a person's character, competence, or health;
- strategy for collective bargaining;
- pending or imminent litigation;
- an acquisition or sale of real property, including water rights or shares;
- the deployment of security personnel, devices, or systems;
- the investigation of criminal conduct;
- the receipt or review of ethics complaints by the Independent Legislative Ethics Commission;
- certain matters under the jurisdiction of a legislative ethics committee;

- certain legislative or political subdivision ethics complaint matters; and
- certain deliberations and decision making involved in the procurement process.

A public body may close a meeting only by a two-thirds vote with a quorum present. A public body that closes a meeting is required to announce and record in the minutes the reasons for closing the meeting.

A public body may not close a meeting to discuss filling a midterm vacancy or temporary absence for an elected position, or to discuss a person whose name was submitted to fill a midterm vacancy or temporary absence for an elected position.

An ordinance, resolution, rule, regulation, contract, or appointment may not be approved during the closed portion of a meeting.

A vote is not required to close a meeting for the Independent Legislative Ethics Commission to review an ethics complaint if the publicly distributed agenda for the meeting states that the meeting will be closed.

Emergency Meetings (Section 52-4-202)

A public body or a specified body may hold an emergency meeting and is not required to give 24-hour notice if unforeseen circumstances arise that require urgent consideration. However, a public

body may not hold an emergency meeting unless it attempts to notify all members of the public body and a majority of its members approve the meeting.

Electronic Meetings (Sections 52-4-207 and 52-4-209 and IR-3-1-105)

A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern electronic meetings. The Legislature's Interim Rule 3-1-105 governs electronic legislative meetings and states that a committee member may participate in a public meeting from a remote location if:

- the member will be more than 50 miles away from the meeting location;
- the member requests permission of the chair to participate from a remote location; and
- the chair obtains permission from the speaker of the House of Representatives and president of the Senate to conduct an electronic meeting.

Penalties (Sections 52-4-302 and 52-4-305)

Open Meetings- Any final action taken in a meeting that is in violation of OPMA is voidable by a court.

Closed Meetings- It is a class B misdemeanor to knowingly or intentionally violate the closed meeting provisions of OPMA.

Definitions (Section 52-4-103)

Meeting means a convening of a public body or a specified body with a quorum present to discuss, receive public comment about, or act upon a matter over which the public body or the specified body has jurisdiction or advisory power.

Does not include a chance or social gathering, a convening of a public body that has both legislative and executive responsibilities in certain circumstances, or a convening of the State Tax Commission to consider a confidential tax matter.

Public Body means an administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- is created by the Utah constitution, state statute, rule, ordinance, or resolution;
- expends, disburses, or is supported in whole or in part by tax revenue; and
- is vested with the authority to make decisions regarding the public's business.

Does not include a political party, political group, or political caucus, or a conference committee, rules committee, or sifting committee of the Legislature.