



Summary of Key Provisions of the Open and Public Meetings Act

Purpose (Section 52-4-102)

The Open and Public Meetings Act was enacted upon the premise that the state, its agencies, and its political subdivisions exist to aid in the conduct of the people's business. As such, a public body should deliberate and take action openly.

Definitions (Section 52-4-103)

- **Meeting** means a convening of a public body or a specified body with a quorum present to discuss, receive comment on, or act upon a matter over which the public body or the specified body has jurisdiction or advisory power.
- **Meeting** does not mean 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** is any administrative, advisory, executive, or legislative body of the state or its political subdivisions that
 - is created by constitution, statute, rule, ordinance, or resolution;
 - expends, disburses, or is supported by tax revenue; and
 - is vested with the authority to make decisions regarding the public's business.
- **Specified Body** is an administrative, advisory, executive, or legislative body that is not a public body and has at least one member who is a legislator appointed by the president, speaker, or governor.

2014 Amendments to the Open and Public Meetings Act

S.B. 113 – Public Meetings Amendments requires a specified body to provide public notice of meetings the body holds on the capitol hill complex.

S.B. 169 – Public Meetings Materials Requirements requires certain public bodies (including state and municipal legislative bodies) to require an individual who publicly presents or provides electronic information at an open meeting of the public body to provide an electronic or hard copy of the electronic information.

S.B. 179 – Procurement Revisions allows a public body to close a public meeting to discuss and deliberate on certain procurement issues.

Public Notice (Section 52-4-202)

- A public body, or specified body meeting at the capitol hill complex, shall give notice at least 24 hours before each meeting. The public notice shall
 - include the date, time, and place of the meeting;
 - include an agenda that lists specific topics to be considered;
 - be posted in specified places, including the Utah Public Notice Website; and
 - be provided to a newspaper or local media correspondent.
- A public body may discuss a topic raised by the public that is not listed on the agenda, but may not take final action on the topic.

Minutes and Recordings (Section 52-4-203)

- A public body shall keep written minutes and a recording of all meetings. A recording is not required for a site visit if no vote or action is taken by the public body.
- Pending minutes shall
 - indicate that the public body has not yet approved the minutes, and
 - be available to the public within 30 days.
- Within three business days after holding a public meeting, a recording of an open meeting shall 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 shall be
 - posted on the Utah Public Notice Website, and
 - made available at the public body's primary office.

Closed Meetings (Sections 54-4-204, and 52-4-205)

- A meeting is open to the public unless it is closed by a two-thirds vote with a quorum present at the open meeting.
- The public body shall announce the reasons for the closed meeting and enter the reasons into the minutes of the open meeting.
- The public body may only hold a closed meeting 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;
 - specified commercial information discussed by a county legislative body;
 - certain legislative or political subdivision ethics complaint matters;
 - fiduciary or commercial information being discussed by the Utah Higher Education Assistance Authority;
 - certain deliberations and decision making involved in the procurement process.
- A public body may not close a meeting to discuss filling a midterm vacancy or temporary absence or to discuss a person whose name was submitted for consideration to fill a midterm vacancy or temporary absence.

Closed Meeting Exceptions (Section 52-4-204)

- No vote is required to close a meeting for the Independent Legislative Ethics Commission to review an ethics complaint.
- If a public body is required to hold a closed meeting, it may do so by a simple majority vote instead of a two-thirds majority vote.

Emergency Meetings (Section 52-4-202)

A public body or a specified body may hold an emergency meeting and bypass some public notice requirements if unforeseen circumstances arise that require urgent consideration. A public body may not hold an emergency meeting unless it makes an attempt to notify all members and a majority of its members approve the meeting. A public body need not give a 24-hour notice if unforeseen circumstances require an emergency meeting and the public body gives the best practical notice possible.

Electronic Meetings (Sections 52-4-207 and 52-4-209)

A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern electronic meetings.

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

- **Open Meetings**—Any final action taken in violation of the Open and Public Meetings Act is voidable by a court.
- **Closed Meetings**—It is a class B misdemeanor to knowingly or intentionally violate closed meeting provisions of the Open and Public Meetings Act.

**A public body shall provide annual training to its members on the requirements of the Open & Public Meetings Act (Section 52-4-104). This summary is intended for a state legislative audience and should not be construed as exhaustively addressing requirements of the act for other public bodies.*

Public Policy Behind Open and Public Meetings Act

- › Cities exist "to aid in the conduct of the people's business"
- › Public confidence is eroded when public bodies deliberate and/or act behind closed doors.

General Rule – Meetings are Open

- › Meetings are open to the public unless closed in accordance with the Act

What is a Meeting?

Convening of a public body with a quorum present for the purpose of

- › discussing,
- › receiving comments from the public about, or
- › acting upon a matter

Over which the public body has jurisdiction or advisory power."

"Meeting" includes ...

- › Workshops
- › Executive Sessions
- › Site Visits
- › Traveling Tours

"Meeting" does not include ...

- › Chance meetings
- › Social meetings

Public Notice

- › Give the public at least 24 hours notice
- › Notice includes
 - Agenda
 - Date
 - Time
 - Place

Agenda

- ▶ “Reasonable specificity” regarding topics to be discussed
- ▶ List each topic under a separate agenda item

What can we talk about in a meeting?

- ▶ Agenda items
- ▶ Non-agenda items raised by the public (at the Mayor’s discretion)
- ▶ May not take final action on an item unless it was on the agenda and properly noticed*

*Emergency meetings

- ▶ May take action on an item in an emergency meeting that was not on an agenda or properly noticed
- ▶ Emergency meeting
 - Unforeseen circumstances dictate discussion of matters of an emergent or urgent nature
 - Give best notice practicable of time, place and agenda
 - Attempt to notify all council members and majority of council members approve of the meeting

Notice Requirements

- ▶ Public notice of annual meeting schedule
- ▶ Not less than 24 hours public notice of each meeting
 - Notice includes agenda, date, time and place of meeting
 - Public notice satisfied by:
 - Posting at City offices
 - Posting on Utah Public Notice Website
 - Providing notice to at least one newspaper of general circulation or a local media correspondent

Closed Meetings

- ▶ Prerequisites
 - Quorum is present
 - Open meeting that is properly noticed
 - 2/3 vote to close (majority if meeting is required to be closed)
- ▶ Procedure (publicly announced & in minutes)
 - Reason(s) for closing meeting
 - Location
 - Vote of each member re: motion to close

Closed Meetings

- ▶ Each matter discussed must be permitted
 - Character, professional competence or physical or mental health of an individual
 - Strategy regarding pending or reasonably imminent litigation
 - Acquisition or sale of real property, including water shares*
 - Security issues
 - Investigating criminal conduct
 - Certain procurement issues

Closed Meetings

- ▶ Thou shalt not
 - Discuss matters not permitted by statute
 - Approve an ordinance, resolution, rule, regulation, contract, or appointment
 - Interview someone applying to fill an elected vacancy
 - Discuss filling a midterm vacancy
 - Discuss the character, professional competence or physical or mental health of an individual applying to fill a midterm vacancy

Violations

- ▶ Final actions taken in violation of Open and Public Meetings Act are voidable
- ▶ Violations of closed meetings provisions may result in disclosure of information from the meeting
- ▶ Class B misdemeanor to knowingly or intentionally violate or abet the violation of closed meetings provisions