



UTAH COMMUNICATIONS AUTHORITY

KEEPING PUBLIC SAFETY CONNECTED

Open and Public Meetings Act – Chris Hughes



Annual Training: Utah Communications Board

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 presentation is intended to facilitate compliance with that requirement and to help the board understand OPMA. This presentation does not intend to cover every requirement of OPMA and does not attempt to explain or address requirements for other public bodies.

OPMA's stated goal is to ensure that the state, its agencies, and its political subdivisions deliberate and take their actions openly and conduct deliberations openly
(Section 52-4-102).

**Definitions:
Section 52-4-103**

(7)(a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specified body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;...

(12)(a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

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 provides for reasonable specificity of the topics the public body will consider; and
- be posted on the Utah Public Notice Website and on the public body's official website.

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.

Action:
Section 52-4-202

Each topic in which a public body will take action must be listed under an agenda item on the meeting agenda.

- a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.
- Except as provided in emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:
 - listed under an agenda item; and
 - included with the advance public notice required by this section.

Electronic Meetings: Section 52-4-207

- A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
- A public body that convenes and conducts an electronic meeting shall:
 - give public notice of the electronic meeting; and
 - except for an electronic meeting described in Subsection (5), post written notice of the electronic meeting at the anchor location.

A public body shall have to provide space at the anchor location for the public.

A public body may provide means by which members of the public may attend the meeting remotely by electronic means.

Minutes and Recordings: Section 52-4-203

- A public body is required to keep written minutes and a recording of all meetings unless the meeting is a site visit or traveling tour where no vote or action is taken.
- A recording of the open portions of the meeting must be posted on the Utah Public Notice Website within three business days after the public meeting.
- Draft minutes are required to be made available to the public within 30 days after the meeting.
- The approved minutes and any public materials distributed at the meeting must, within three business days after their approval, be:
 - posted on the Utah Public Notice Website; and
 - made available at the public body's office.

**Closed Meetings:
Sections 52-4-204
and 52-4-205**

A public body may hold a closed meeting only for certain purposes, including to discuss:

- a person's character, competence, or health;
- pending or imminent litigation;
- strategy sessions to discuss the purchase, exchange, or lease of real property;
- the deployment of security personnel, devices, or systems;
- an investigation of alleged criminal conduct; and
- certain deliberations and decision making involved in the procurement process.

Process to Close Meetings

- A Quorum must be present.
- Two thirds of the members present must vote to close the meeting.
- The body must first hold an open public meeting with proper notice before entering into the closed meeting.
- The body must publicly disclose: Note: there are separate requirements code
 - The vote by name of each member for or against entering into the closed meeting
 - The reasons for holding the closed meeting
 - Location of the closed meeting

What not to do in a Closed Meeting

You may not:

- Approve any ordinance, resolution, rule, regulation, contract or appointment
- Take final action
- Final votes must be open and on the record, (except as allowed specifically by statute)

**Emergency
Meetings: Section
52-4-202**

A public body may hold an emergency meeting and is not required to give 24-hour notice if unforeseen circumstances arise that require the public body to consider matters of an emergency or urgent nature. 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.

**Penalties:
Sections 52-4-302
and 52-4-305**

Open Meetings - Any final action taken in a meeting that is in violation of certain open-meeting provisions 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.

Final Thoughts:

- A governing body is required to provide citizens a reasonable opportunity to speak during a public hearing.
- All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- A recording must be a complete and unedited record of all open portions of the meeting from beginning to end; and be labeled with the meeting date, time, and place.

**Additional
Training**

Open and Public Meetings Act Training
2023 can be found at
training.auditor.utah.gov