

UTAH OPEN & PUBLIC MEETINGS ACT

Utah Code §§ 52-4-101 et seq.

What is OPMA?

- OPMA provides requirements for conducting meetings of public officials, who have the authority to make policy and budget decisions in the public's interest.
- It requires an open deliberative process before a public body votes on matters under its jurisdiction.
- **ALL** votes are taken in public.

What is a Meeting?



A gathering of a public body or specified body “with a **quorum** present” convened “for the express purpose of acting as a public body or specified body” to receive comment about, deliberate about, or take action upon a **relevant matter**. Utah Code § 52-4-103(5).

Key terms: “quorum” and “relevant matter”

What is a Quorum?

A simple majority of the membership of a public body, unless otherwise defined by applicable law.



What is a Relevant Matter?

A matter “within the scope of the authority of a public body or specified body.”





Records of Open Meetings

Do we have to keep minutes and/or recordings?

- YES TO BOTH!
- Written minutes will be the official record.
- Both written minutes and audio recording are public records.

Written Minutes

- Date, time, and place of meeting;
- Names of members present and absent;
- Substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments;
- Record, by individual member, of each vote taken by the public body; and
- Name of each person who makes a public comment and the substance of the comment



Electronic Meetings



An electronic meeting occurs when at least one member of the public body attends electronically (video or audio), even if most people attend in person.

- The public body must adopt resolution, rule, or ordinance governing the use of electronic meetings. (**52-4-207(2)**)
- Notice requirements still apply.

Do we have to provide a physical anchor location?

- Not if all the members of the public body attend electronically (**52-4-207(5)(e)**)
 - Exception: Body must provide an anchor location if it receives a written request at least 12 hours before the start of the meeting. (**52-4-207(4)(a)**)
- If there's an anchor location, the body MAY provide the public an electronic attendance link (**52-4-207(4)(b)**); if there's no anchor location, the body is required to provide a public attendance link

Emergency Meetings



Due to unforeseen circumstances that must be articulable.

- An example might be a broken water line that cannot wait for the next scheduled meeting.
- Emergency!

Requires best notice practicable.

Cannot be held unless an attempt has been made to notify all members of the public body and a majority of the members approve the meeting.



Closed Meetings

- A public body can close a meeting under certain circumstances.
- 52-4-205 lists **all** the reasons for closing an open meeting.
- Process:
 - A quorum must be present at the open meeting.
 - A motion to close the meeting must be made, naming the specific statutory reason for closure.
 - Roll call vote must be taken. Two-thirds of the quorum must approve closing the meeting.

Reasons a Meeting May be Closed (52-4-205)

1. To discuss character, professional competence, or physical or mental health of an individual (doesn't require recording if the chair signs an affidavit after);
2. To discuss collective bargaining;
3. To discuss pending or reasonably imminent litigation;
4. To discuss the purchase, exchange, or lease of real property, if public discussion would disclose the appraisal value or prevent the transaction on the best possible terms;
5. To discuss the sale of property, if public discussion would disclose the appraisal value or prevent transaction on best possible terms as long as there's public notice of sale and terms are disclosed before the sale;
6. To discuss security personnel, devices, or systems (doesn't require recording if the chair signs an affidavit after);
7. To discuss investigative proceedings regarding allegations of criminal misconduct; and
8. A few other exceptions relating to loans, the Legislature, Higher Education, and the Utah Procurement Code.



Record of Closed Meetings

- In most cases, a recording shall be made, and written minutes may also be made. These are protected records under GRAMA.
- If the closed meeting is held to discuss character, competence, or physical or mental health of an individual, no recording is required.
 - Instead, the presiding member of the public body executes a sworn statement that the sole purpose of the closed meeting was to discuss these issues.
- **NO VOTES ARE TAKEN IN CLOSED MEETINGS**
(except an optional vote to end the closed meeting)

Remedies & Enforcement

Voiding final action

- Any final action taken in violation of OPMA is voidable by a court of competent jurisdiction.
- Must file suit to void final action within **90 days** of the action.

Who can enforce OPMA?

- Attorney General and County Attorneys
- Any person denied a right by the action taken may sue to compel compliance or enjoin violations
- Aggrieved party may recover attorney's fees





TRAINING

The presiding officer of a public body shall ensure that the body receives OPMA training on an annual basis.