



# Open and Public Meetings

UTAH CODE TITLE 52, CHAPTER 4, PART 1

# Open and Public Meetings Act

Members of a public body must be provided with annual training on the requirements of Utah's Open and Public Meetings Act.





# Quorums and Open Meetings

A meeting that is open to the public includes a meeting of a public body in which a quorum is present.

A meeting of a public body in which a quorum is **not** present is **not** required to be open to the public.

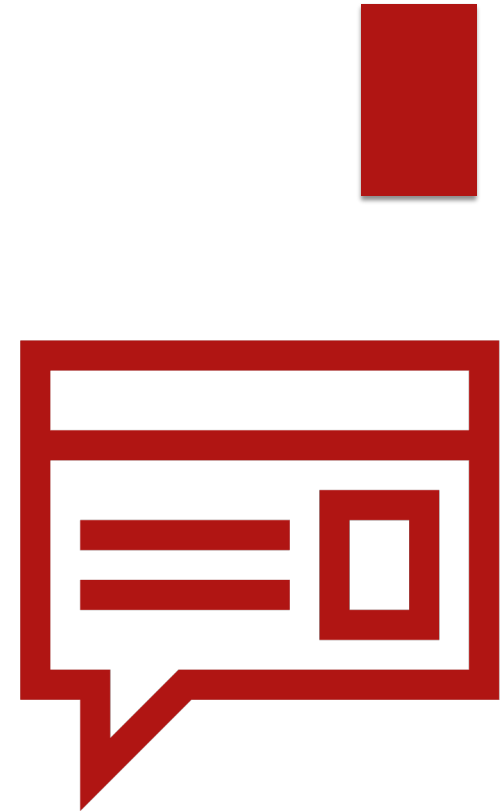
# Meetings of Public Agencies Must Be Open to the Public

A board meeting must be open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206 of Utah law.



# Requirement for an Anchor Location for the Meeting

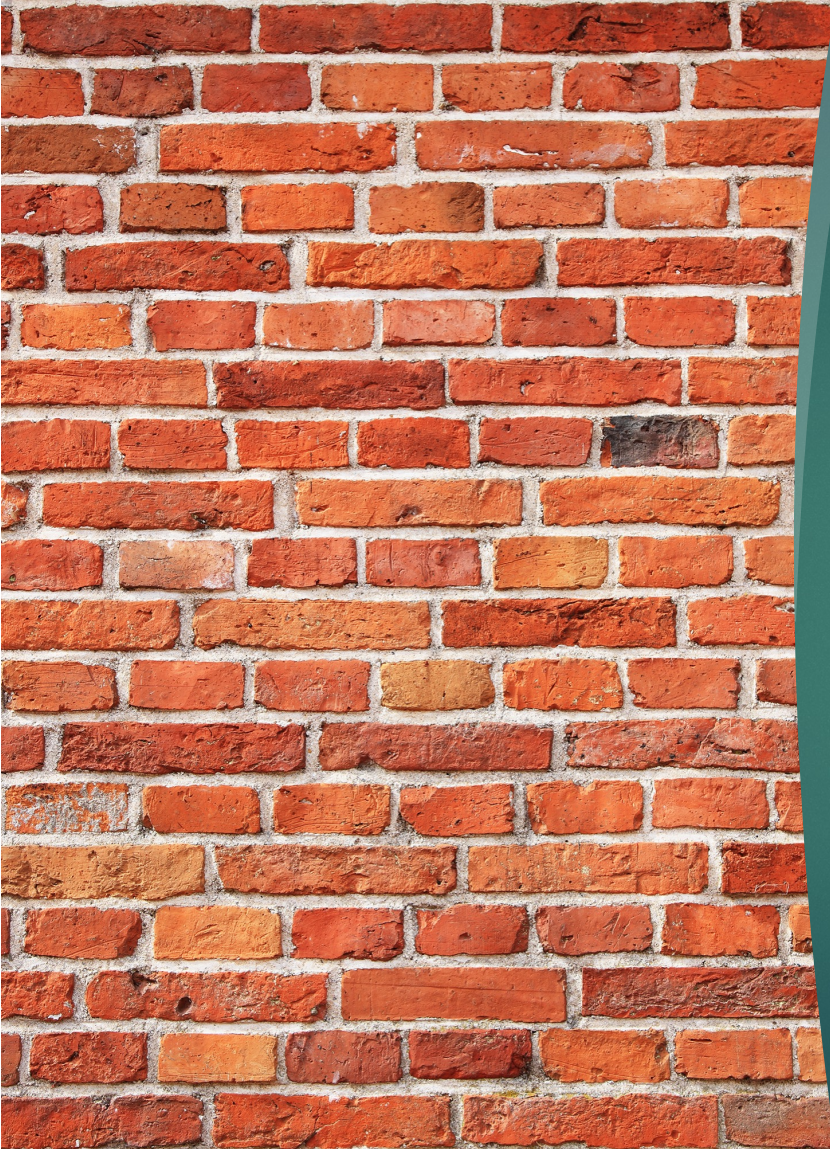
- ▶ The school must provide room and equipment for the public to listen, view, and comment during open sessions.
- ▶ For a board meeting, the public body typically provides space in its building or offices where the public body would ordinarily gather in person.
- ▶ Written notice of the meeting must be posted explicitly at this anchor location as well as on the public notice website.



# Electronic Meetings and Anchor Locations

A public body holding an electronic meeting must still provide space, facilities, and technology at a physical anchor location so that the public can attend, monitor, and participate in open portions of the meeting.





# Exceptions to Anchor Locations

- ▶ The requirement for an anchor location may be disregarded if the Board Chair determines that conducting the meeting in person or at the anchor location presents a substantial risk to the health and safety of those who would otherwise be present at the anchor location;
- ▶ Or the location where the public body would normally meet has been ordered closed to the public for health or safety reasons.

# Requirements With No Anchor

- ▶ The Chair must give notice of the determination that no anchor location will be used and the reasons for the determination;
- ▶ The Chair must provide information to the public body and members of the public on how they may participate in the meeting remotely by electronic means.





# Electronic Meeting Requirements

- ▶ In accordance with 52-4-207, a public body may conduct a meeting that some or all members of the public body attend through an electronic video, audio, or both video and audio connection.
- ▶ 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.

# More on Electronic Meeting Requirements

- ▶ The public body must provide a procedure for recording votes of members, including defining circumstances under which a roll call vote is required.
- ▶ The public body must establish other procedures, limitations, or conditions governing electronic meetings.



# Still More on Electronic Meetings

- ▶ A public body must give proper public notice of an electronic meeting including the place of the anchor location;
- ▶ A public body must give a link or description of how members of the public may join.
- ▶ The presiding officer shall require a person to identify himself or herself if the person participates or casts a vote as a board member.



# Workshop Locations Consistent with Regular Meetings

Workshops and Executive Sessions of the public body should be held at the same location as regular meetings unless:

- ▶ The meeting is part of a site visit or traveling tour that has been noticed to the public;
- ▶ The workshop or executive session is an electronic meeting conducted according to 52-4-207; or,
- ▶ The meeting must be moved because of an emergency or extraordinary circumstances.





# Utah Public Notice Website

- ▶ The public body must publish notice of its meeting on the Utah Public Notice Website at least 24 hours prior to the meeting.
- ▶ The public body should also post a 24-hour notice of its meeting at the anchor location where the meeting will be held.
- ▶ If an emergency meeting does not allow for 24-hours notice, the public body should post notice of a meeting as soon as practicable.

# Limitations for Emergency Meetings



An emergency meeting of a public body may not be held unless:

- ▶ An attempt has been made to notify all members of the public body; and,
- ▶ A majority of the members of the public body approve holding the meeting.

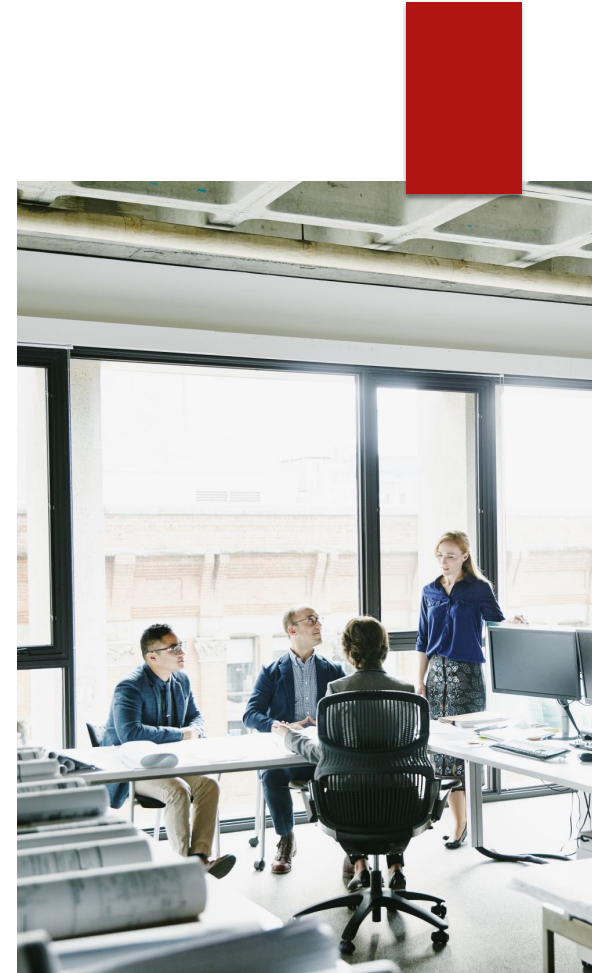
# Public Notice Content

- ▶ The public notice shall include the agenda, date, time, and place of the meeting.
- ▶ A public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule.



# Required Content in Notices

The notice must include agenda items that are reasonably specific to notify the public on topics to be considered at the meeting.



## Taking Final Action in 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 included with the advance public notice.



# Public Comments at Board Meetings

- ▶ A local school board holding an open, public meeting under 52-4-201 must allow a reasonable opportunity for the public to provide verbal comments.
- ▶ At the discretion of the presiding member of the public body, 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.





# Public Comment Policy Required

Local school boards must have a written policy that provides a reasonable opportunity for the public to provide both verbal and written comments in a meeting of the school board.

# Requirements for Written Minutes

- ▶ Date, time, and place of the meeting;
- ▶ Names of members present and absent;
- ▶ Substance of all matters proposed, discussed, or decided by the public body;
- ▶ A record by individual member of each vote taken by the public body.



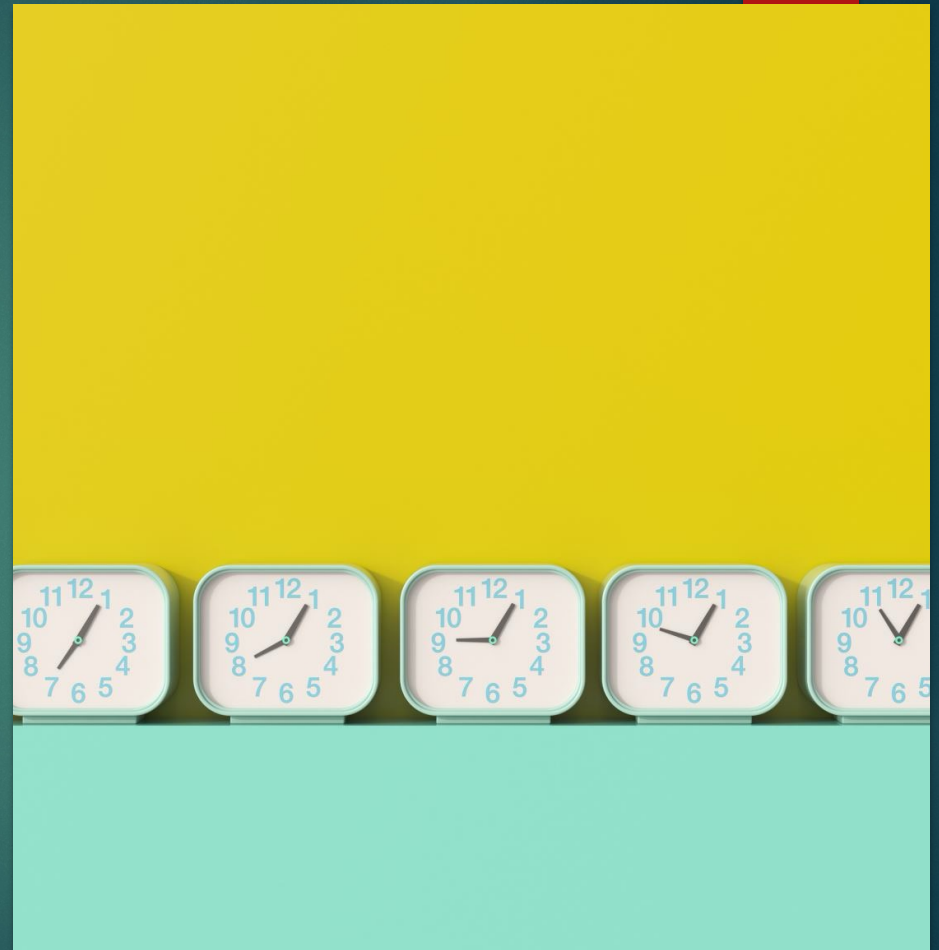
# More Requirements for Minutes



- ▶ The name of each person who is not a member of the public body and who, after being recognized by the presiding member, provided testimony or comments to the public body.
- ▶ The substance, in brief, of the testimony of comments provided by the public.
- ▶ A summary of comments made by members of the public body.
- ▶ Any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

# Approval of Minutes

- ▶ Minutes must be posted as “pending approval” as soon as is practicable after a board meeting but within 30 days.
- ▶ Approved minutes must be posted within 3 days on the Utah public website and the school’s website.
- ▶ Minutes are subject to change before being approved by the public body that held the open meeting.



# Recordings of Open Meetings



- ▶ A public body may satisfy the requirement that minutes include the substance of matters proposed, discussed, or decided, or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording.
- ▶ The recording of an open meeting must be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and be properly labeled or identified with the date, time, and place of the meeting.

# More about Recordings

- ▶ Recordings or a link to the recording must be posted on the public body's website within 3 business days of holding a meeting.
- ▶ 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.



# Closed Meeting Requirements

A closed meeting may be held if a quorum is present, the meeting is an open meeting for which notice has been given, and two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting.

A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.



# Reasons for Closing a Public Meeting

To discuss the character, professional competence, or physical or mental health of an individual;

To hold a strategy session to discuss collective bargaining;

To hold a strategy session to discuss pending or reasonably imminent litigation;

To hold a strategy session to discuss the purchase, exchange, or lease of real property, a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, and public discussion would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms.

# More Reasons for Closed Session

To hold a strategy session to discuss the sale of real property, including any form of a water right or water shares;

To discuss deployment of security personnel, devices, or systems;

To investigate proceedings regarding allegations of criminal misconduct.



# Trade Secret Justification

To discuss information designated as a trade secret, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code, where the information may not be disclosed to a member of the public or to a participant in the procurement process; and the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process.





## To Prevent Specific Disclosures

To consider a loan application, if public discussion of the loan application would disclose non-public personal financial information or a non-public trade secret, or non-public business financial information, the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information.

# Records from Closed Session

If a public body closes a meeting, the public body:

Shall make a recording of the closed portion of the meeting; and,

May keep detailed written minutes that disclose the content of the closed portion of the meeting.

A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed portion of the meeting.



# Exceptions to Closed Meeting Records



If a public body closes a meeting exclusively for discussion of the character, professional competence, or physical or mental health of an individual or for discussion regarding deployment of security personnel, devices, or systems, the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was for either of those purposes. Then the requirements to make a recording or keep minutes do not apply.

# Content of Closed Meeting Records

A recording and minutes of a closed meeting shall include:

- ▶ Date
- ▶ Time
- ▶ Place of meeting
- ▶ Names of members present and absent
- ▶ Names of all present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting





# Retention of Closed Meeting Records

- ▶ Minutes or recordings of a closed meeting are required to be retained permanently and must be maintained in or converted to a format that meets long-term records storage requirements.
- ▶ A recording, transcript, report, and written minutes of a closed meeting are protected records under GRAMA and may be disclosed under a court order under 52-4-304 or upon request of the Office of the Legislative Auditor General.