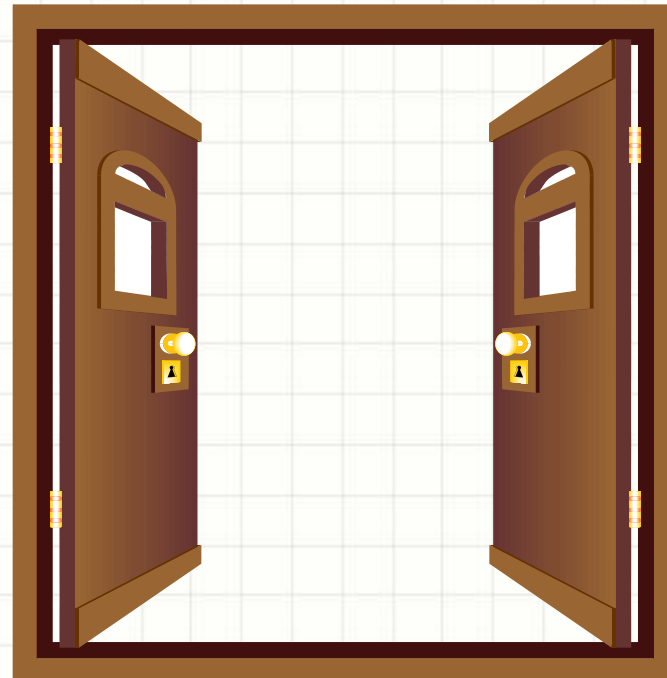




OPEN AND PUBLIC MEETINGS TRAINING



March 15, 2018

Training Outline

- ❖ Public Policy
- ❖ General Rule
- ❖ Definitions
- ❖ Notice Requirements
- ❖ Agenda Requirement
- ❖ Minutes/Recording of Open Meetings
- ❖ Closing a Meeting
- ❖ Record of Closed Meetings
- ❖ Electronic Communication Outside of Meeting
- ❖ Training and Enforcement



Public Policy - §52-4-102

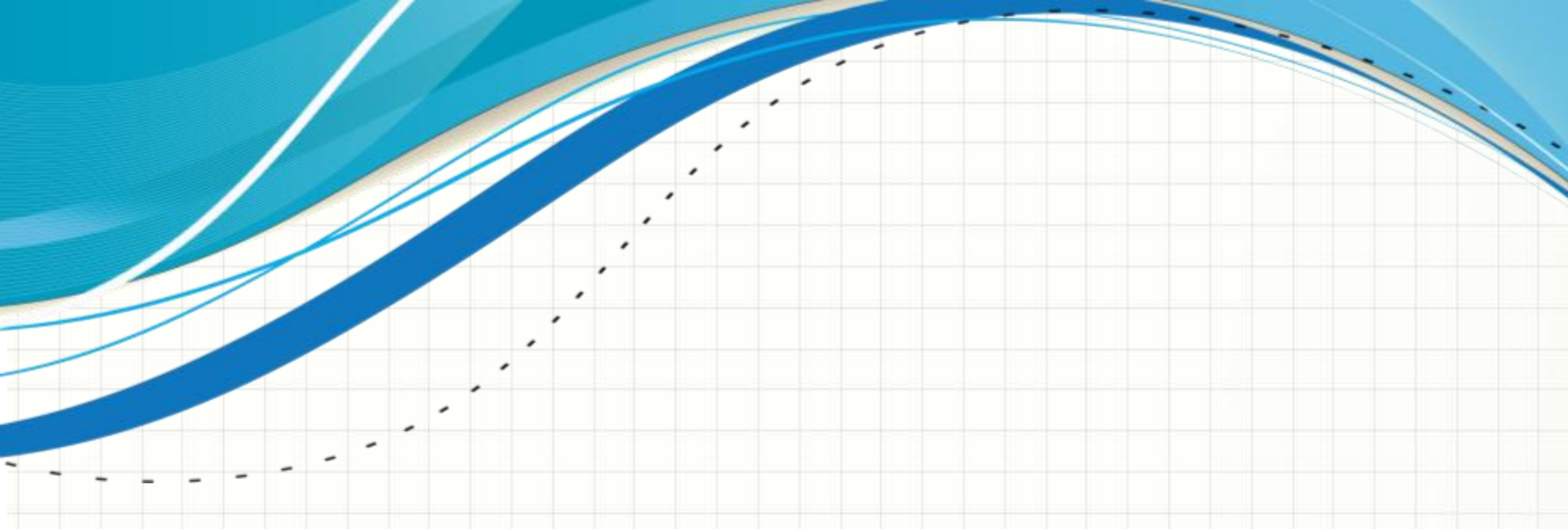
- ❖ Public bodies exist to aid in the conduct of the people's business.
- ❖ Their actions and deliberations should be taken and conducted openly.



BROAD INTERPRETATION

“The Open and Public Meeting Act should be interpreted broadly.....Therefore, it follows that the exceptions to open meetings be strictly construed.”

Kearns-Tribune Corp. vs Salt Lake County Commission, 28 P.3d 686 (2001).



DEFINITIONS

What is a “Public Body”?

The Board of Trustees is a public body.

“Public body” means any administrative, advisory, executive, or legislative body of the state or its subdivisions that:

1. is created by the Utah Constitution, a statute, rule, ordinance, or resolution;
2. consists of two or more persons;
3. expends, disburses or is supported in whole or part by tax revenue; and
4. is vested with the authority to make decisions regarding the public’s business.

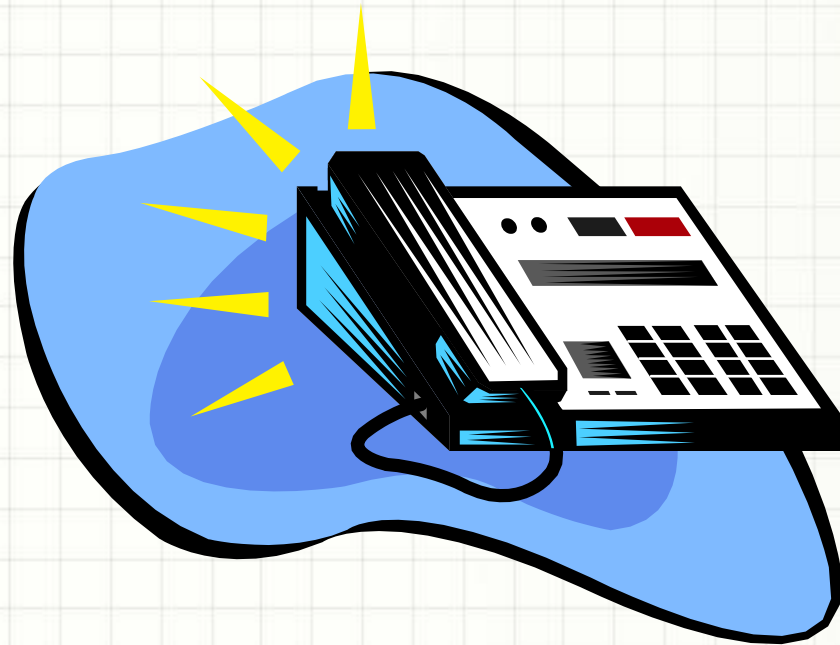
What is Considered a “Meeting”?

- ❖ “Meeting” means:
 - the convening of a **public body**, (including a workshop)
 - with a **quorum** present, whether in person or by means of electronic communications,
 - for the purpose of **discussing** or acting upon **a matter over which the public body has jurisdiction or advisory power**.

- ❖ This does **NOT** include:
 - a **chance** or **social** meeting.

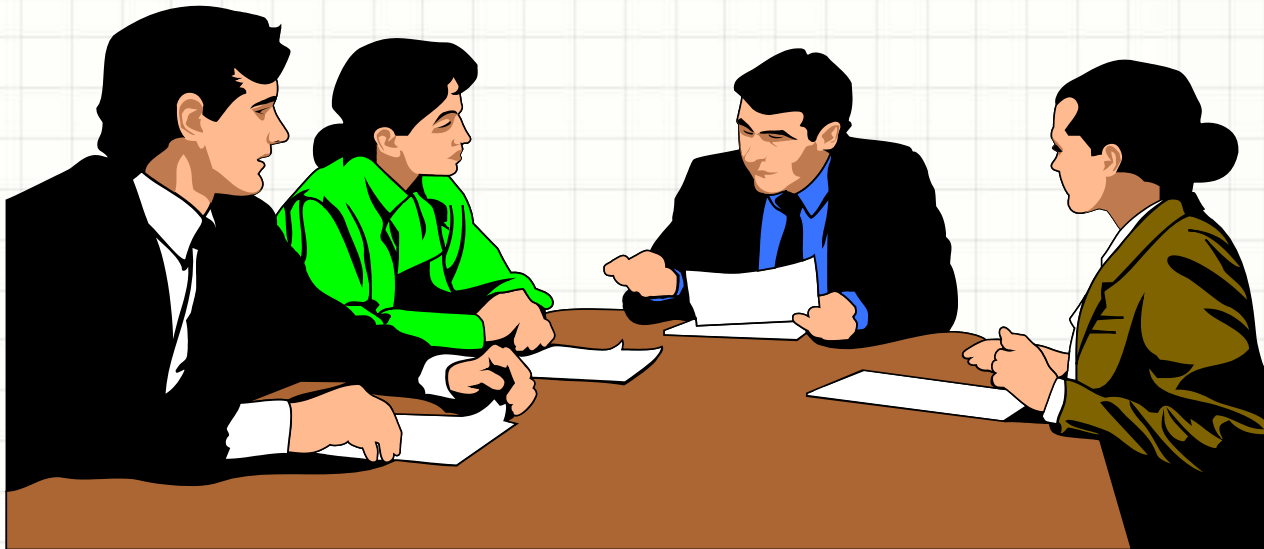
Electronic Meetings

- An electronic meeting is a public meeting convened or conducted by means of a conference using electronic communication. – UCA 52-4-103(3)
- The Board may not hold an electronic meeting unless it first adopts a resolution governing the use of electronic meetings. – UCA 52-4-207(a)



What is a “Quorum”?

“Quorum” means a simple majority of membership of a public body, unless otherwise defined by applicable law.



NOTICE REQUIREMENTS

TIME

DATE

PLACE

AGENDA



Public Notice is satisfied by:

1. specifying the date, time and place of the meeting,
2. posting written notice at the principal office of the Board, or if no principal office exists, at the building where the meeting is to be held, *and* on the Utah Public Notice Website,
and
3. Providing notice to a local newspaper or local media correspondent.

Notice

- ❖ **24 Hour** notice is required.
- ❖ Notice must provide reasonable specificity to notify the public as to the topics to be considered at the meeting.
List each topic.
- ❖ The 24-Hour notice requirement **may be disregarded** if:
 - due to unforeseen circumstances, it's necessary for the Board to hold an **emergency** meeting to consider matters of an emergency or urgent nature; **and**
 - the Board gives the **best notice practicable** of the time, place, and topics to be considered at the emergency meeting.

AGENDA

No final action can be taken on a topic unless it is on the Agenda.

Exceptions:

- Emergency Meeting
- Topic raised by the public (at the discretion of the Board Chair), but then the topic can only be discussed, not acted upon. UCA 52-4-202(6)

MINUTES

Written Minutes and a recording shall be kept of all open meetings.



Contents of Written Minutes

Written minutes and recordings must include:

- Date, Time and Place of the Open Meeting
- Name of members present and absent
- The substance of all matters proposed, discussed, and decided
- A record of votes taken, by individual member
- Name of every non-Board member who provided testimony or comments to the Board of Trustees and the substance of the testimony
- Any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

Content of Recording of an Open Meeting

- Complete unedited record of all open portions of the meeting from commencement through adjournment.
- Properly labeled with date, time, and place.

Note: Independent, third party recording is allowed so long as it doesn't interfere with the conduct of the meeting.

Public Record

- Pending minutes of an open meeting are public and must be available within 30 days after holding a public meeting.
- Approved minutes of an open meeting are public and must be available within 3 days after approving the written minutes.
- A recording of an open meeting shall be available to the public for listening on the Utah Public Notice Website (or as a link to the recording) within 3 business days after the meeting. UCA 52-4-203(4)(d)

Official Record

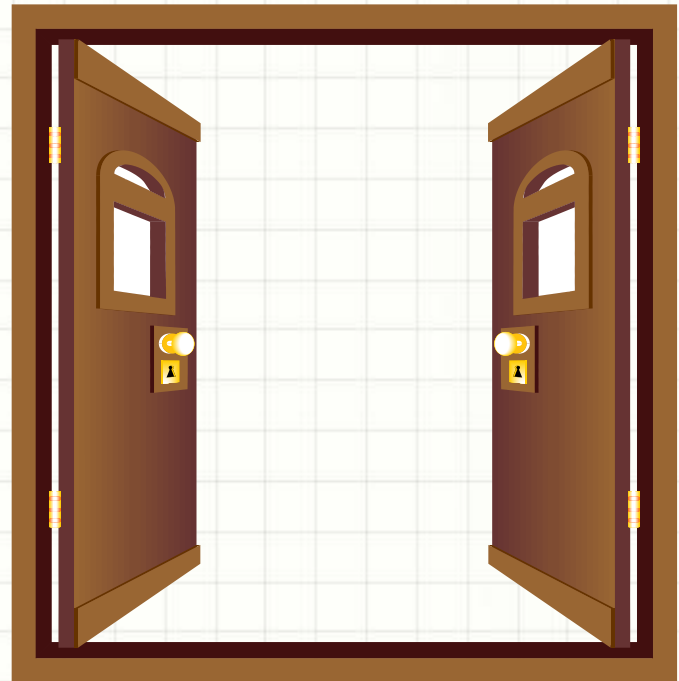
Approved minutes (but not the recording) are the official record of action taken at the open meeting.



General Rule

Every meeting is open. . . except when closed.

- ❖ Every meeting is open to the public unless closed pursuant to Sections 52-4-204, 52-4-205, and 52-4-206 of the Open and Public Meeting Act.



CLOSING A MEETING



NO ADMITTANCE

A Closed Meeting may be held if:

(1) A **quorum** is present, and (2) **2/3** of the Board Members, present at the Open Meeting, vote to approve closing the meeting.

The reasons for holding the closed meeting, the location of the Closed Meeting, and the vote by name of each member of the Board, either for or against the motion to hold the closed meeting, must be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved.

An ordinance, rule, regulation, contract or appointment may not be approved at a closed meeting.

Purposes of a Closed Meeting

A **Closed Meeting** may **only** be held for:

- Discussion of the character, professional competence, or physical or mental health of an individual.
- Strategy sessions to discuss collective bargaining.
- Strategy sessions to discuss pending or reasonably imminent litigation.
- Strategy sessions to discuss the purchase, exchange, or lease of real property if disclosure of the transaction would disclose the appraisal or value of property, or prevent completion on best possible terms.
- Strategy sessions to discuss the sale of real property.
- Discussion regarding the deployment of security personnel, devices, or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

RECORD OF CLOSED MEETINGS

- A closed meeting shall be recorded and may have detailed written minutes.*
 - *Exceptions: discussion of character, professional competence or physical or mental health of an individual or the discussion regarding the deployment of security personnel, devices, or systems need not be recorded. However, in such cases, a sworn affidavit needs to be signed regarding the purpose of the closed meeting.
- Closed Meeting Minutes or the Recording are protected records under GRAMA, subject to disclosure by court order.

TEXTS AND EMAILS

Nothing in the Open and Public Meeting Act shall be construed to restrict a Board member from transmitting electronic messages to other Board members at a time when the Board is not convened in an open meeting



TRAINING

- The Chair of the Board of Trustees shall ensure that all Board members are provided with annual training on the requirements of Utah's Open and Public Meeting Act.

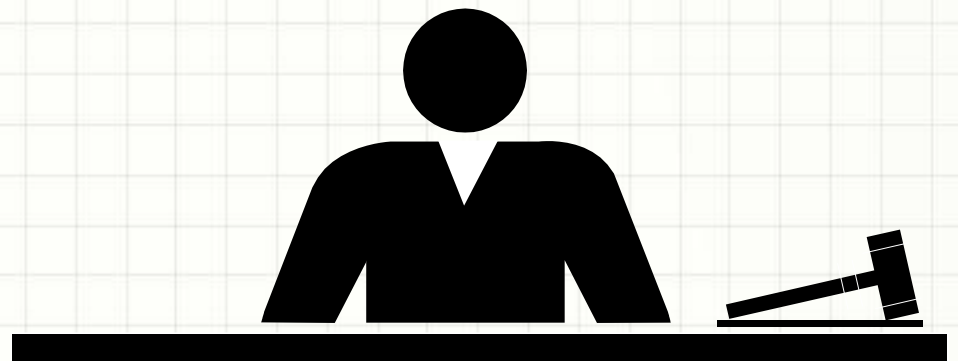


ENFORCEMENT

The Attorney General enforces the Act and shall, annually, provide notice to the Board of any material changes to the requirements for the conduct of Board meetings.

Enforcement of Open Meeting Act

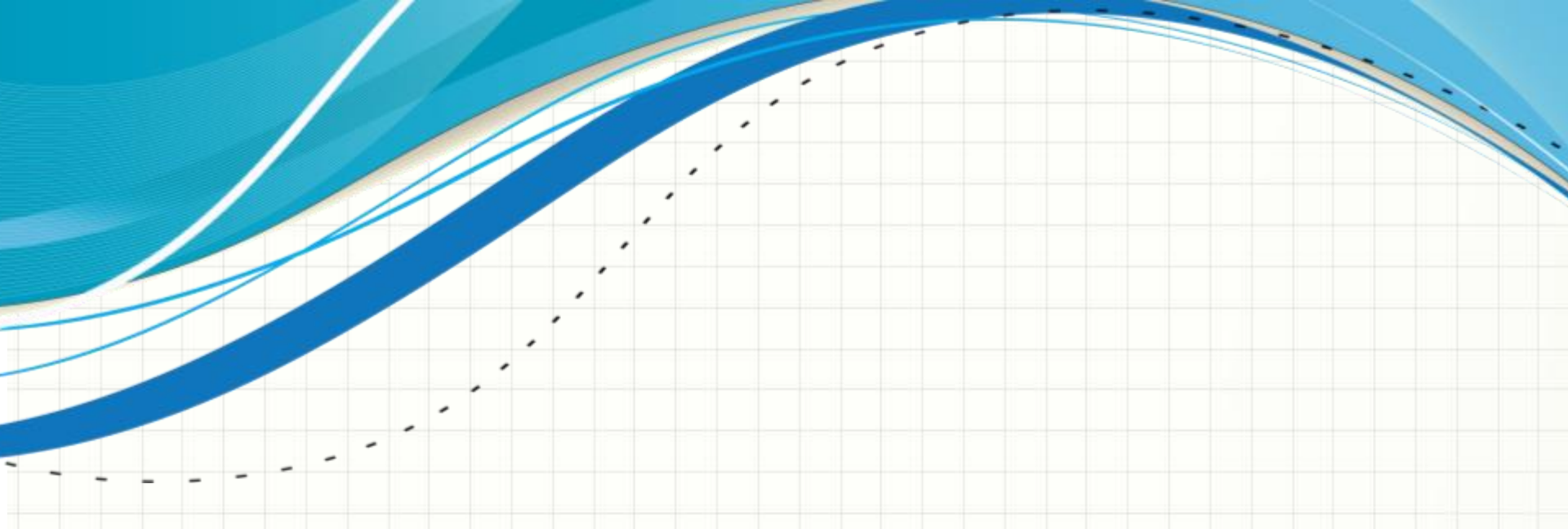
- If a person **disrupts** a public meeting to the extent that orderly conduct is seriously compromised, the person can be **removed**.
- Any **final action** taken in **violation** of certain sections of the Open Meeting Act is **voidable** by a court.



Criminal Penalty

“... a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of ANY of the closed meeting provisions of [the Open and Public Meeting Act] is guilty of a class B misdemeanor.”





QUESTIONS?