

# OPEN AND PUBLIC MEETINGS ACT

Utah Code Annotated

§ 52-4-101 *et seq.*



“A MEETING  
IS OPEN TO  
THE PUBLIC  
UNLESS  
CLOSED . . .”

U.C.A. § 52-4-201(1)

# WHAT IS A MEETING?

- Convening
- Public Body
- Quorum
- Purposes:
  - Discussion
  - Receiving public comment
  - Taking action
    - Jurisdiction or advisory power
- Workshop or Executive Session

# CONVENING A PUBLIC BODY

- “the calling of a meeting of a public body”
- “by a person authorized to do so”
- “for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power”
- “any administrative, advisory, executive, or legislative body”
- “of the state or its political subdivisions”
- “created by the Utah Constitution, statute, rule, ordinance, or resolution;”
- “consists of two or more persons;”
- “expends, disburses, or is supported in whole or in part by tax revenue; and”
- “is vested with the authority to make decisions regarding the public’s business”
- INCLUDES an interlocal entity

**What is *Convening*?**

**What is a *Public Body*?**

# NOTICE

- 24 hours public notice
- Agenda, date, time and place
  - Reasonable specificity
  - Final action → advance notice on agenda
- Principal Office
- Utah Public Notice Website
- Newspaper

# NOTICE: EMERGENCIES

- ⊙ **Emergency Meeting:**

- Best notice practicable: time, place and topics of meeting

- ⊙ **May only be held if:**

- Attempt to notify all members of public body and majority of members approve the meeting

# RECORD OF AN OPEN MEETING

- Recording

- Minutes:

- date, time, place of meeting;
- names of members present and absent;
- substance of all matters proposed, discussed or decided which may include a summary of comments made by members of the public body;
- record of each vote taken (by individual);
- person's name/content public comment;
- other information that is a record of the proceeding that a member requests entered

# PROVIDING MINUTES, RECORDING TO PUBLIC

- Pending, approved minutes and recording = public records
- Pending minutes
  - Clearly marked
  - Made available within reasonable time after meeting
- Approved minutes
  - Official record of the meeting
  - W/in 3 days of approval, make available to public
- Recording
  - W/in 3 days of meeting, make available to public

# PUBLIC COMMENT

- Public comment allowed, not required
  - Unless another statute requires a hearing
  - May discuss, not take action on topic raised by public
- Removal if disruption “to the extent that orderly conduct is seriously compromised”
- Don’t take action on something that isn’t on the agenda



“A MEETING IS  
OPEN TO THE  
PUBLIC UNLESS  
CLOSED UNDER  
SECTIONS 52-4-  
204, 52-4-205,  
AND  
52-4-206.”

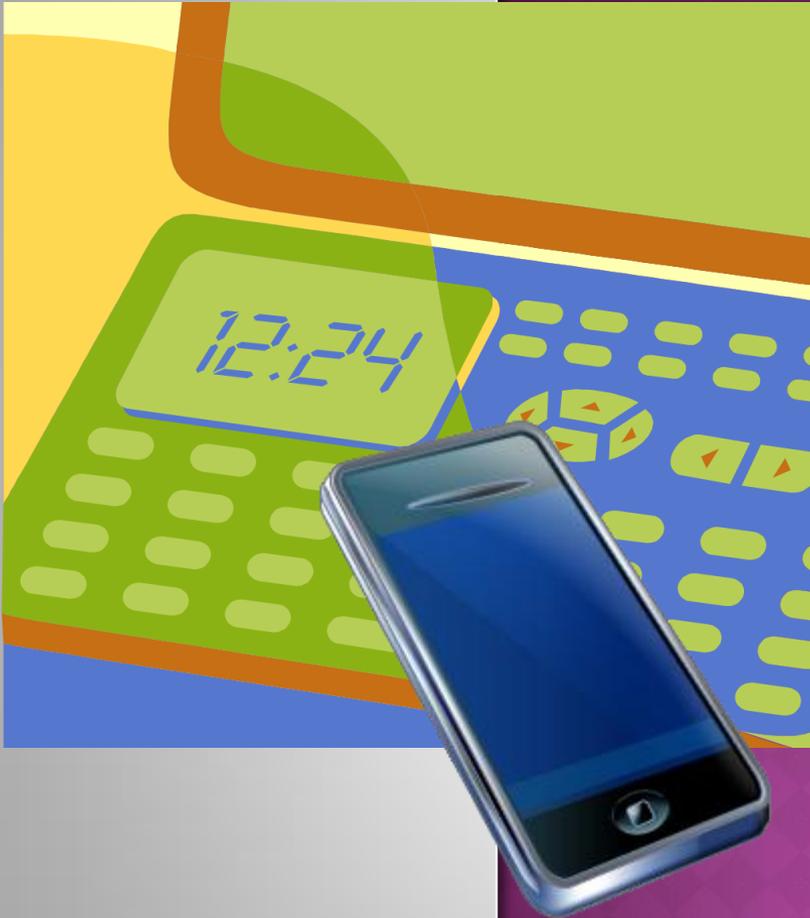
U.C.A. § 52-4-201(1)

# WHEN CAN A MEETING BE CLOSED?

- ◉ Individual's character, professional competence, physical/mental health
- ◉ Collective bargaining strategy
- ◉ Pending or reasonably imminent litigation
- ◉ Limited real property transactions
- ◉ Security personnel, devices, systems deployment
- ◉ Investigative proceedings regarding allegations of criminal misconduct

# PROCEDURES FOR CLOSING A MEETING & DURING CLOSED MEETING

- ◉ Quorum present
- ◉ Open meeting, properly noticed
- ◉ 2/3 members present vote to close
- ◉ Publicly announce
- ◉ Enter in minutes
- ◉ Recording
  - Include: date, time, place; names of members present/absent; names of all others present
- ◉ May keep minutes
- ◉ No recording and minutes: Individual's character, professional competence, physical/mental health; security personnel, devices, systems deployment; some state agencies
  - Sworn Statement

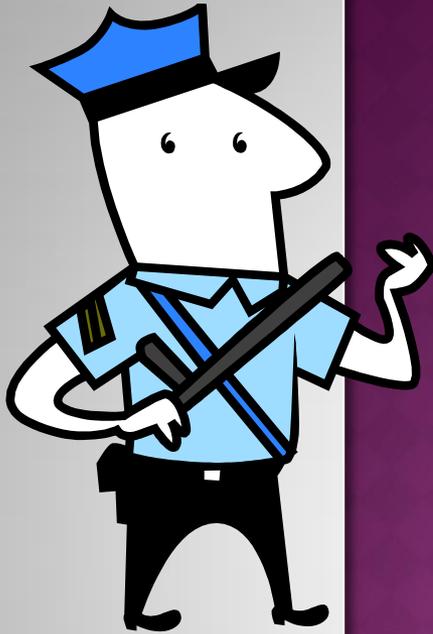


“A PUBLIC  
BODY MAY  
CONVENE AND  
CONDUCT AN  
ELECTRONIC  
MEETING . .  
”  
.

U.C.A. § 52-4-207

# REQUIREMENTS FOR CONDUCTING AN ELECTRONIC MEETING

- Must first adopt a “resolution, rule, or ordinance governing the use of electronic meetings”
- Give the following types of notice:
  - Notice as if the meeting were physical (under U.C.A. § 52-4-202)
  - Post notice at anchor location
  - Provide at least 24 hours advance notice to members
  - Describe how members will be connected
- Provide an anchor location in the building where public body would normally meet with space and facilities for the public to attend, as well as participate if appropriate



## ENFORCEMENT

U.C.A. § 52-4-302--305

# WHAT HAPPENS IF YOU DON'T FOLLOW OPMA?

- ⊙ Lawsuits
  - Compel compliance
  - Enjoin violations
- ⊙ Actions voidable by court
- ⊙ Closed meeting recording/minutes disclosed
- ⊙ Attorney fees
- ⊙ Class B Misdemeanor