

OPEN AND PUBLIC MEETINGS ACT TRAINING

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20 Questions:

1. Who is responsible to ensure that a body receive training regarding the Act?

The presiding officer of each public body is responsible to ensure that all members of the public body are provided with annual training on the Open and Public Meetings Act.

See UTAH CODE ANN. §52-4-104.

2. What is the intent or public policy of the Act?

- a. Public bodies exist to aid in the conduct of the people's business.
- b. The actions and deliberations of public bodies should be taken and conducted openly.

See UTAH CODE ANN. §52-4-102.

3. What is a meeting?

The convening of a *public body*, with a *quorum* present, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public concerning, or acting upon a matter over which the public body has jurisdiction or advisory power.

See UTAH CODE ANN. §52-4-103(6).

4. What is NOT a meeting?

- a. A chance gathering
- b. A social gathering
 - i. Ex: a holiday party is not a meeting
 - ii. Ex: a ribbon cutting for a new business is not a meeting

See UTAH CODE ANN. §52-4-103(6)(b).

5. What is a quorum?

A “quorum” means a simple majority (greater than half) of the membership of a public body, unless otherwise defined by applicable law.

See UTAH CODE ANN. §52-4-103(11).

6. What constitutes notice of a meeting? How do we notice a meeting?

- a. At least **24 hours’ public notice** of the agenda, date, time and place of each meeting.
- b. The 24-hour public notice is satisfied by:
 - i. posting a written notice at the principal office of the public body; and
 - ii. posting the notice online at the Utah Public Notice Website
- c. **Annual public notice** of the date, time, and place of regularly scheduled board meetings must also be posted in the same manner.

See UTAH CODE ANN. §52-4-202(1)-(3); UTAH CODE ANN. § 63F-1-701.

7. What about emergency meetings?

- a. Best notice practicable – time, place and topics; and
- b. Quorum approves the need for a meeting

See UTAH CODE ANN. §52-4-202(5).

8. What are the agenda requirements?

A public notice that is required to include an agenda must be specific enough to notify the public as to the topics to be considered at a meeting.

See UTAH CODE ANN. §52-4-202(6)(a).

9. What if a topic is raised that is not on the agenda?

The public body may discuss the topic, but it cannot take any action on the topic.

See UTAH CODE ANN. §52-4-202(6)(b)-(c).

10. What should be included in the meeting minutes?

- a. the date, time and place of the meeting;
- b. the names of members present and absent;
- c. the substance of all matters proposed, discussed, or decided;
- d. record, by individual member, of each vote taken;
- e. the name of each person who is not a member who provided testimony or comments;
- f. the substance of any testimony or comments by the public; and
- g. any other information any member requests to be entered.

See UTAH CODE ANN. §52-4-203(2).

11. What are the elements of a properly closed meeting?

- a. A quorum is present
- b. A properly noticed open meeting
- c. 2/3 of the members of the public body present vote to approve closing the meeting (optional closed meeting)
- d. A majority of the members of the public body present vote to approve closing the meeting (for meetings required to be closed).

See UTAH CODE ANN. §52-4-204(1).

12. What subjects may be covered in a closed meeting?

- a. discussion of the character, professional competence, or physical or mental health of an individual (excepting a person submitted for consideration to fill a midterm vacancy or temporary absence of an elected office);
- b. strategy sessions discussing:

- i. pending or reasonably imminent litigation;
- ii. collective bargaining;
- iii. the purchase, exchange, or lease of real property if discussion would disclose property value or prevent the best possible transaction for the public body;
- iv. the sale of real property if discussion would disclose property value or prevent the best possible transaction for the public body;
- v. deployment of security personnel, devices, or systems; and
- vi. investigative proceedings regarding allegations of criminal misconduct.

See UTAH CODE ANN. §52-4-205(1).

13. What can be decided in a closed meeting?

14. Keeping a record of a closed meeting?

- a. Date, time, and place of the meeting;
- b. The names of members present and absent;
- c. The names of all other present unless disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting;
- d. Keep a recording forever
- e. Instead of a recording, a sworn statement is required from the person presiding at a meeting if a public body closes a meeting exclusively for the purpose of:
 - i. discussing character, professional competence, or physical or mental health of an individual; or

- ii. discussing the deployment of security personnel, devices, or systems.

See UTAH CODE ANN. §52-4-206.

15. How does one challenge a closed session?

- a. Court action
- b. In camera review to decide legality of the closed meeting

See UTAH CODE ANN. §52-4-304.

16. What are the requirement for an electronic meeting?

- a. Written policy – resolution, rule, or ordinance governing use of electronic meetings
- b. Post public notice as usual
- c. Post written notice at the anchor location of the meeting
- d. Specify how members of the public can participate

See UTAH CODE ANN. §52-4-207.

17. How do you deal with Disruptive behavior?

Any person who willfully disrupts a public meeting to the extent that disorderly conduct is seriously compromised may be removed from the meeting.

See UTAH CODE ANN. §52-4-301.

18. Enforcement of the Act?

- a. The attorney general and county attorneys are responsible for enforcement of the Open and Public Meetings Act.
- b. The attorney general is required on a least a yearly basis to provide notice to all public bodies of any material changes to the Open and Public Meetings Act.

- c. A person denied any right under the Act may bring suit to compel compliance with or enjoin violations or determine the applicability of the Act, and may be awarded attorney fees and court costs if successful.

See UTAH CODE ANN. §52-4-303.

19. What are the penalties for violating the Act?

- a. Termination or suspension for an employee
- b. Official action could be voided in Court
- c. A knowing or intentional violation or aiding or advising in the violation of the closed meeting provisions of the Open and Public Meetings Act is a class B misdemeanor.
- d. Criminal penalties for intentionally destroying or failing to keep records.

See UTAH CODE ANN. §52-4-305.

20. Questions?