

Open and Public Meetings Act

A Summary of Key Provisions for Legislators – April 2016



The *Open and Public Meetings Act* requires that members of a public body be “provided with annual training on the requirements of [the *Open and Public Meetings Act*]” (Section 52-4-104). This document is intended to assist legislators in understanding the *Open and Public Meetings Act* in fulfillment of that requirement. This summary is intended for a state legislative audience and does not exhaustively address requirements for other public bodies.

The *Open and Public Meetings Act* is based on the premise that the state, its agencies, and its political subdivisions exist to conduct the people’s business and that a public body should deliberate and take action openly (Section 52-4-102).

Definitions (Section 52-4-103)

Meeting means a convening of a public body or a specified body with a quorum present to discuss, receive public comment about, or act upon a matter over which the public body or the specified body has jurisdiction or advisory power.

Meeting does not include a chance or social gathering, a convening of a public body that has both legislative and executive responsibilities in certain circumstances, or a convening of the State Tax Commission to consider a confidential tax matter.

Public Body means an administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- is created by the Utah constitution, state statute, rule, ordinance, or resolution;
- 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.

Specified Body means an administrative, advisory, executive, or legislative body that is not a public body and has at least one member who is a legislator officially appointed by the president of the Senate, the speaker of the House of Representatives, or the governor.

Specified Body does not include a conference committee, rules committee, or sifting committee of the Legislature.

2016 Amendments

S.B. 190 - Open and Public Meetings Law Revisions

Modified definitions to exempt a conference committee, rules committee, or sifting committee of the Legislature from the *Open and Public Meetings Act*.

Public Notice (Section 52-4-202)

A public body, or specified body meeting at the capitol hill complex, is required to provide public notice at least 24 hours before each meeting. The public notice is required to:

- include the date, time, and place of the meeting;
- include an agenda that lists specific topics to be considered;
- be posted in specified places, including the Utah Public Notice Website; and
- be provided to a newspaper or local media correspondent.

A public body may discuss a topic raised by the public that is not listed on the agenda, but may not take final action on the topic.

Minutes and Recordings (Section 52-4-203)

- A public body is required to keep written minutes and a recording of all meetings. However, a recording is not required for a site visit if no vote or action is taken by the public body.
- Pending minutes must be made available to the public within 30 days after the meeting and indicate that the public body has not yet approved the minutes.
- Within three business days after holding a public meeting, a recording of an open

meeting must be posted on the Utah Public Notice Website.

- Within three business days after approving written minutes, the approved minutes and any public materials distributed at the meeting are required to be:
 - posted on the Utah Public Notice Website; and
 - made available at the public body's primary office.

Closed Meetings (Sections 52-4-204 and 52-4-205)

A public body may only hold a closed meeting for certain reasons, including the discussion of:

- a person's character, competence, or health;
- strategy for collective bargaining;
- pending or imminent litigation;
- an acquisition or sale of real property, including water rights or shares;
- the deployment of security personnel, devices, or systems;
- the investigation of criminal conduct;
- the receipt or review of ethics complaints by the Independent Legislative Ethics Commission;
- certain matters under the jurisdiction of a legislative ethics committee;
- certain legislative or political subdivision ethics complaint matters; and
- certain deliberations and decision making involved in the procurement process.

A public body may only close a meeting by a two-thirds vote with a quorum present at the open meeting. A public body that closes a meeting is required to announce the reasons for closing the meeting and enter the reasons into the minutes of the open meeting.

A public body may not close a meeting to discuss filling a midterm vacancy or temporary absence for an elected position, or to discuss a person whose name was submitted for consideration to fill a midterm vacancy or temporary absence for an elected position.

An ordinance, resolution, rule, regulation, contract, or appointment may not be approved during the closed portion of a meeting.

A vote is not required to close a meeting for the Independent Legislative Ethics Commission to review an ethics complaint if the publicly distributed agenda for the meeting states that the meeting will be closed.

Emergency Meetings (Section 52-4-202)

A public body or a specified body may hold an emergency meeting and is not required to give 24-hour notice if unforeseen circumstances arise that require urgent consideration. However, a public body may not hold an emergency meeting unless it makes an attempt to notify all members of the public body and a majority of its members approve the meeting.

Electronic Meetings (Sections 52-4-207 and 52-4-209 and IR-3-1-105)

A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern electronic meetings. The Legislature adopted IR 3-1-105 to govern electronic meetings. That rule states that a legislator may participate in a public meeting from a remote location if:

- The legislator will be more than 50 miles away from the meeting location;
- The legislator requests that the chair allow the legislator to participate from a remote location; and
- The chair obtains permission from the speaker of the House of Representatives and president of the Senate to conduct an electronic meeting.

Penalties (Sections 52-4-302 and 52-4-305)

Open Meetings

Any final action taken in a meeting that is in violation of the Open and Public Meetings Act is voidable by a court.

Closed Meetings

It is a class B misdemeanor to knowingly or intentionally violate closed meeting provisions of the Open and Public Meetings Act.