

# Open and Public Meetings Act

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# Chapter 4

## Open and Public Meetings Act

### Part 1

#### General Provisions

#### **52-4-101 Title.**

This chapter is known as the "Open and Public Meetings Act."

Enacted by Chapter 14, 2006 General Session

#### **52-4-102 Declaration of public policy.**

- (1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- (2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
  - (a) take their actions openly; and
  - (b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Amended by Chapter 196, 2017 General Session

Amended by Chapter 277, 2017 General Session

Amended by Chapter 441, 2017 General Session

### **52-4-104 Training.**

The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

Enacted by Chapter 263, 2006 General Session

## Part 2 Meetings

### 52-4-201 Meetings open to the public -- Exceptions.

(1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.

(2)

(a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:

(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;

(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;

(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or

(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

Amended by Chapter 77, 2016 General Session

**52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.**

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2)

(a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

**52-4-204 Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.**

(1) A closed meeting may be held if:

(a)

(i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202;

and

(iii)

(A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(D) for the Political Subdivisions Ethics Review Commission established in Section 11-49-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 11-49-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

- (iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."
- (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.
- (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
- (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
- (a) the reason or reasons for holding the closed meeting;
  - (b) the location where the closed meeting will be held; and
  - (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.
- (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

## **52-4-205 Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

- (1) A closed meeting described under Section 52-4-204 may only be held for:
  - (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
  - (b) strategy sessions to discuss collective bargaining;
  - (c) strategy sessions to discuss pending or reasonably imminent litigation;
  - (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:
    - (i) disclose the appraisal or estimated value of the property under consideration; or
    - (ii) prevent the public body from completing the transaction on the best possible terms;
  - (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
    - (i) public discussion of the transaction would:
      - (A) disclose the appraisal or estimated value of the property under consideration; or
      - (B) prevent the public body from completing the transaction on the best possible terms;
    - (ii) the public body previously gave public notice that the property would be offered for sale; and
    - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
  - (f) discussion regarding deployment of security personnel, devices, or systems;
  - (g) investigative proceedings regarding allegations of criminal misconduct;
  - (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;
  - (i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);



- process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
- (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Controversies and Protests; or
- (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;
- (n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;
- (o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:
  - (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and
  - (ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process; or
- (p) a purpose for which a meeting is required to be closed under Subsection (2).

- (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and
- (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

## **52-4-206 Record of closed meetings.**

- (1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:
  - (a) shall make a recording of the closed portion of the meeting; and
  - (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.
- (2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.
- (3) The recording and any minutes of a closed meeting shall include:
  - (a) the date, time, and place of the meeting;
  - (b) the names of members present and absent; and
  - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

## **52-4-207 Electronic meetings -- Authorization -- Requirements.**

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2)

(a) 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.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 363, 2014 General Session

**52-4-210 Electronic message transmissions.**

Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.

Enacted by Chapter 25, 2011 General Session