# Open and Public Meetings Act

## Summary of Key Provisions

## Purpose (*Section 52-4-102*)

State and local agencies exist to conduct the people's business, which must be done openly.

## Definitions (*Section 52-4-103*)

- **Meeting** means a convening of a public body with a quorum present to discuss, receive comment, or act on a matter under its jurisdiction or advisory power.

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

- **Public Body** is any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
  - is created by constitution, statute, rule, ordinance, or resolution;
  - expends, disburses, or is supported by tax revenue; and
  - is vested with the authority to make decisions regarding the public's business.

    - A school community council established under Section 53A-1a-108 is not a public body. *(H.B. 128)*

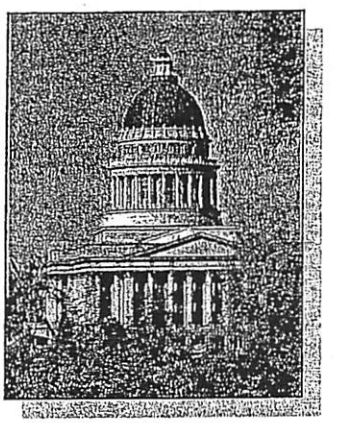
## Public Notice (*Section 52-4-202*)

- A public body must give notice at least 24 hours before each meeting. The public notice must:
  - include the date, time, and place of the meeting;
  - include an agenda that lists topics to be considered;
  - be posted in specified places; 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 (*Sections 52-4-203 and 52-4-206*)

- A public body must keep written minutes and a recording of all meetings. A recording is not required for a site visit if no vote or action is taken by the public body.
- Written minutes of an open meeting must be:
  - available to the public within a reasonable time;
  - approved by the public body; and
  - considered public when prepared in a form awaiting formal approval and identified as "unapproved."
- A public body must make a recording of an open meeting available to the public within three business days.

## Closed Meetings *(Sections 52-4-201, 52-4-204, and 52-4-205)*



- A meeting is open to the public unless it is closed by a two-thirds vote with a quorum present at the open meeting.
- The public body must announce the reasons for the closed meeting and enter the reasons into the minutes of the open meeting.
- The public body may only hold a closed meeting for certain reasons, including:
  - discussion of a person's character, competence, or health;
  - strategy for collective bargaining;
  - pending or imminent litigation;
  - an acquisition of real property including water rights or shares;
  - discussion of security system;
  - investigation of criminal conduct;
  - specified commercial information discussed by a county legislative body;
  - certain legislative or political subdivision (S.B. 180) ethics complaint matters; or
  - fiduciary or commercial information being discussed by the Utah Higher Education Assistance Authority.
- A public body may not close a meeting to discuss filling a midterm vacancy or temporary absence or to discuss a person whose name was submitted for consideration to fill a midterm vacancy or temporary absence. *(H.B. 491)*

**Closed Meeting Exceptions** *(Sections 52-4-204)*

- No vote is required to close a meeting for the Independent Legislative Ethics Commission to review an ethics complaint.
- If a public body is required to hold a closed meeting, it may do so by majority vote.
- Closed meeting provisions specifically relating to the Alcoholic Beverage Control Commission issuing a retail license were repealed. *(S.B. 66)*

## Emergency Meetings *(Section 52-4-202)*

A public body may not hold an emergency meeting unless it makes an attempt to notify all members and a majority of the members approve the meeting. A public body need not give a 24-hour notice if unforseen circumstances require an emergency meeting and it gives the best practical notice.

## Electronic Meetings *(Sections 52-4-207 and 52-4-209)*

- A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern them.
- A charter school board may conduct an electronic meeting that is in writing on a website under certain conditions. *(H.B. 311)*

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

- **Open Meetings** - Any final action taken in violation of the act is voidable by a court.
- **Closed Meetings** - It is a class B misdemeanor to knowingly or intentionally violate closed meeting provisions.

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** A public body must provide annual training to its members on the requirements of the Open & Public Meetings Act (Section 52-4-104). This summary is intended for a state legislative audience and should not be construed as exhaustively addressing requirements of the act for other public bodies. The 2012 amendments to the act are underlined.*

OLRGC
Office of Legislative Research and General Counsel