

# Open and Public Meetings Act

## A Summary of Key Provisions | April 2021

The *Open and Public Meetings Act (OPMA)* 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 facilitate compliance with that requirement. Key terms are defined at the end of the document.

The stated goal of the OPMA is to ensure that the state, its agencies, and its political subdivisions deliberate and take action openly. (Section [52-4-102](#))

### Public Notice

(Section [52-4-202](#))

A public body is required to provide public notice of a meeting at least 24 hours before the meeting. The public notice is required to:

- specify the date, time, and place of the meeting;
- include an agenda that specifies the topics the public body will consider;
- be posted on the Utah Public Notice Website and at the location of the meeting; and
- be provided to a newspaper or local media correspondent.

A public body may discuss an item raised by the public that is not listed on the agenda but may not take final action on the item at the meeting.

### Minutes and Recordings

(Section [52-4-203](#))

- A public body is required to keep written minutes and a recording of all meetings unless the meeting is a site visit or traveling tour where no vote or action is taken.
- A recording of the open portions of the meeting must be posted on the Utah Public Notice Website within three business days after the public meeting.
- Draft minutes are required to be made available to the public within 30 days after the meeting.
- The approved minutes and any public materials distributed at the meeting must, within three business days after their approval, be:
  - posted on the Utah Public Notice Website; and
  - made available at the public body's office.

### 2021 Amendments to OPMA

- [HB 27](#) modifies the process of publishing public notice and "public information" on the "Utah Public Notice Website." Creates a new "Utah Open Records Portal Website" and "Utah Open Data Portal Website" to serve as a GRAMA request point of access.
- [SB 72](#) modifies the provision to prohibit a vote in a closed meeting except to end the closed portion of the meeting. Provides a majority vote to approve the ending of the closed portion of a meeting.
- [SB 125](#) modifies the statute to require an "anchor location" if a public meeting is held virtually or electronically.
- [HB 293](#) modifies the statute to require a public body that is not a state or specified local public body to post and make available minutes and any public materials distributed at the meeting.

### Closed Meetings

(Sections [52-4-204](#), [52-4-205](#), and [52-4-206](#))

A public body may hold a closed meeting only for certain purposes, including to discuss:

- a person's character, competence, or health;
- pending or imminent litigation;
- certain matters regarding acquisition or sale of real property, including water rights or shares;
- the deployment of security personnel, devices, or systems;
- an investigation of alleged criminal conduct; or
- certain deliberations and decision making involved in the procurement process.

A public body may close a meeting only by a two-thirds vote with a quorum present, except that a majority vote is sufficient for closing a meeting of:

- the Health and Human Services Interim Committee to review a fatality review report;
- the Child Welfare Legislative Oversight Panel to review a fatality review report or review and discuss an individual case; or
- an ethics committee of the Legislature to receive legal advice or deliberate on a complaint.

A public body that closes a meeting is required to announce and record in the minutes the reasons for closing the 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 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.

## Emergency Meetings

(Section [52-4-202](#))

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

## Definitions (Section [52-4-103](#))

**Anchor Location** means the physical location from which an electronic meeting originates, or the participants are connected.

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

Meeting does *not* mean a chance or social gathering or a convening of a public body that has both legislative and executive responsibilities in certain circumstances.

## Electronic Meetings

(Section [52-4-207](#))

A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern electronic meetings. The Utah Department of Health's rule for electronic meetings is found in Utah Administrative Code R380-42.

## Penalties

(Sections [52-4-301](#), [52-4-302](#), and [52-4-305](#))

**Open Meetings** - Any final action taken in a meeting that is in violation of certain open-meeting provisions of the OPMA is voidable by a court.

**Closed Meetings** - It is a class B misdemeanor to knowingly or intentionally violate the closed meeting provisions of the OPMA.

**Disruption of Meetings** - A person who willfully disrupts the meeting to the extent order is seriously compromised may be removed from the meeting.

**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.

Public body does not include a political party, political group, or political caucus, or a conference committee, rules committee, or sifting committee of the Legislature.