

# Open and Public Meetings Act

A Summary of Key Provisions for Legislators | April 29, 2022

*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 and to help legislators understand OPMA. This summary is intended for a state legislative audience and does not attempt to explain or address requirements for other public bodies. Key terms are defined at the end of the document.*

OPMA’s stated goal 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, unless the meeting is being held without an anchor location; 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.

## 2022 Amendments to OPMA

- [H.B. 22](#) requires a public body to establish how a quorum is calculated for electronic meetings, prohibits a public body from permitting a member to vote or take other action by proxy during an electronic meeting unless the body adopts a resolution, rule, or ordinance allowing a member to act by proxy, and requires all non-unanimous votes during an electronic meeting to be taken by roll call.
- [S.J.R. 5](#) allows a legislative public body to convene and conduct an electronic meeting, specifies the circumstances under which a member of a legislative public body may participate remotely in an electronic meeting, and addresses the appearance and conduct of a member who participates remotely in an electronic meeting.
- [H.B. 439](#) modifies the requirement for recording votes in the meeting minutes of a public body.

## Closed Meetings

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

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;
- the receipt or review of an ethics complaint, if the public body is the Independent Legislative Ethics Commission;

- certain matters under the jurisdiction of a legislative ethics committee; and
- 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.

No vote is required to close a meeting of 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.

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.

A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting.

## Emergency Meetings

(Section [52-4-202](#) and [JR1-4-402](#))

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.

Any member of a legislative public body may attend an emergency electronic meeting by electronic means and the public body may conduct an emergency electronic meeting of the legislative public body remotely by electronic means.

## Electronic Meetings

(Section [52-4-207](#) and [JR1-4-402](#))

A public body may not convene or conduct a meeting by electronic means unless it has adopted procedures to govern electronic meetings, including how a remote member will be included in calculating a quorum. Electronic meetings shall comply with OPMA, including posting written notice of the meeting at the anchor location, unless the meeting is being held without an anchor location.

A public body may conduct an electronic meeting without an anchor location if the chair of the public body:

- makes a determination that conducting the meeting with an anchor location presents a substantial risk to the health or safety of those who may be present at the anchor location;
- states the facts upon which the determination was made; and
- includes in the public notice for the meeting information on how the public may view or make comment at the meeting.

If an electronic meeting is held without an anchor location, a public body shall provide means by which the public can view and hear the open portions of the meeting and provide comments electronically.

A member of a legislative body may attend a meeting remotely by electronic means if the member has a specified reason and notifies the chair of the public body.

When a member of a legislative public body attends a meeting of the legislative public body by electronic means, the member's attire and appearance shall be consistent with the attire and appearance that would be expected if the member were attending the meeting in person. The member's location should also reflect the dignity of the meeting, particularly if the member is attending via video conference.

A member of a legislative public body may not attend a meeting by electronic means while engaging in any activity that would be abnormal or prohibited if the member were attending the meeting in person, including operating a motor vehicle.

## Penalties

(Sections [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 OPMA is voidable by a court.

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

## Definitions (Sections [52-4-103](#) and [JR1-4-401](#))

**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.

**Legislative Public Body** means a public body that is governed by legislative rules.

**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.

**Specified Reason** means:

- illness or injury of a member or a member's relative;
- health or safety concerns of a member or a member's relative;
- emergency travel;
- an emergency work related issue;
- an emergency child care related issue;
- a mandatory action day or a special circumstance day; or
- a circumstance similar to the circumstances described above.