

# Open and Public Meetings Act

## A Summary of Key Provisions | April 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. 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; 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

- [HB 22](#) Requires a public body to establish how a remote member is calculated in a quorum in electronic meetings after December 31, 2022 and conditions under how a member may vote by proxy. Prohibits a public body from allowing a member to vote or take any other action by proxy unless the body adopts a resolution, rule, or ordinance allowing a member to act by proxy. Except for unanimous votes, all votes during electronic meetings shall be taken by roll call.

### Closed Meetings

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

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 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;
- certain deliberations and decision making involved in the procurement process.

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.

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

With the exception of a vote to end the closed portion and return to an open meeting, a public body may not take a vote in a closed 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

(Sections 52-4-207 and JR1-1-402, 403, JR7-1-407)

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

## 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.

**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.