

Open Meeting Law

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DISCLAIMER

- This is not an exhaustive discussion of OML
- Most common issues that arise in practice
- Please read and review the materials

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General Overview

- **Open Meeting:**
 - Ensures transparency by public bodies
 - Open meetings, public deliberations
 - Allows for confidentiality of certain records and deliberations
 - Enforced by Attorney General's Office

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Open Meeting Law Primer

- Public Bodies Must:
 - Provide Notice
 - Conduct Meetings Open to Public
 - Unless in executive (closed) session
 - Keep Minutes
 - Review and Acknowledge OML materials

Public Body

- “A multiple-member board, commission, committee, or subcommittee within the executive branch... however created, elected, appointed or otherwise constituted, established to serve a public purpose.”

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Provide Notice



- At least 48 hours prior to meeting excluding weekends and holidays
 - Date, time, place, topics reasonably anticipated at the meeting
 - Date and time notice was posted
- Exceptions for emergencies
- State public bodies post to website

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Conduct of Meetings

- Quorum
 - 7 members must be physically present for commission meetings, including chair or person designated to run the meeting
 - Quorum of subcommittees must be present for subcommittee meeting
- Deliberations only allowed during the open meeting
 - A **deliberation** is an oral or written communication through any medium, including electronic mail, between or among a **quorum** of a public body on any matters within the group's jurisdiction on which the quorum may make a decision or recommendation
 - Certain discussions regarding procedural and administrative matters may relate to public business within the group's jurisdiction such as organizational leadership, committee assignments, and rules/bylaws for the organization
 - No deliberations outside of the open meeting
- Excludes
 - Distribution of agendas, reports, scheduling, provided no opinion is expressed

Conduct of Meetings: Remote Participate

- Must be adopted before use by majority vote
- Public bodies are not required to adopt it
- Once adopted, any member can participate remotely only if physical attendance would be “unreasonably difficult”
- Remote participates and all persons at meeting must be clearly audible to each other

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- Quorum, including chair or person authorized to chair the meeting, **must be physically present**
 - Roll call votes; announcement re: who is participating remotely; noted in minutes

Conduct Meetings: Closed Session

- Typically allowed only in certain circumstances
 - Examples:
 - Strategy for litigation
 - Criminal misconduct
 - Security personnel or devices

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Keep Minutes

- Date, Time, Place, list of members present/absent
- Summary discussion of each topic
- Decisions made and record of all votes
- List of documents used at the meeting
- Names of members who participated remotely and reason for the remote participation

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Keep Minutes (cont.)

- Minutes will be created and approved in a timely manner for both open and closed sessions
- Documents must be retained
- Closed session minutes must be disclosed once publication will no longer defeat the purpose of having entered into closed session in the first place, unless otherwise exempt from disclosure

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Review and Acknowledgement

- Must review materials
 - Read and understand requirements and consequences of violation
- Sign certification and return to Carla via email

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Complaints

- Member of Public can file complaints with the public body within 30 days of violation occurring or date reasonably could have been know to occur
- 14 business days to respond/document remedial action if applicable
- If Member of Public is not satisfied with response, they can file complaint with AGO 30 days after making the complaint



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Complaint Remedies

- Compel future compliance
- Mediation
- Trainings
- Demand public release of minutes and materials
- Civil penalties on the public body
- Nullify actions taken in violation of OML
- Other appropriate relief

The End

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