

# Open and Public Meetings Act

## Summary of Key Provisions

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

State and local agencies exist to conduct the people's business, which must be done openly. The intent of the legislature is that state and local agencies take their actions openly and conduct their deliberations 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.
- Convening means the calling of meeting of a public body for the purpose of discussing or acting on a matter under its jurisdiction or advisory power.
- Meeting does not mean a chance or social meeting, a meeting of 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 public body must provide annual training to its members on the requirements of the act (Section 52-4 -104).**

### **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 ethics complaint matters;

- fiduciary or commercial information being discussed by the Utah Higher Education Assistance Authority (S.B. 145); or
- certain factors related to the issuance of a retail license being discussed by the Alcoholic Beverage Control Commission after receiving public input .

#### **Closed Meeting Exceptions (Section 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.

#### **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 unforeseen circumstances require an emergency meeting and it gives the best practical notice.

#### **Electronic Meetings (Section 52-4-209)**

- A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern them.
- The Electronic Meetings for Charter Schools Pilot Program provides separate requirements for charter schools applicable between May 10, 2011, and May 8, 2012.

#### **Electronic Message Transmissions (Section 52-4-210)**

The act does not prohibit a member of a public body from transmitting an electronic message to other members of the public body when the public body is not convened in an open meeting.

#### **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.