

Open and Public Meetings Act

Summary of Key Provisions *

Purpose (Section 52-4-102)

State and local agencies exist to conduct the people's business, which must be done 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.
- **Meeting** does not mean a chance or social meeting, a meeting of a 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 school community council established under Section 53A-1a-108 is not a public body. (H.B. 128)

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.

2012 Amendments to the Open and Public Meetings Act

H.B. 128
School Community
Council Revisions

H.B. 311
Electronic Meetings
for Charter Schools

Midterm Vacancy
Amendments

S.B. 66
Alcoholic Beverage
Control Related
Amendments
(effective 7/1/12)

S.B. 180
Political Subdivision
Ethics Amendments
(effective 9/1/12)

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 or political subdivision (S.B. 180) ethics complaint matters; or
 - fiduciary or commercial information being discussed by the Utah Higher Education Assistance Authority.
- A public body may not close a meeting to discuss filling a midterm vacancy or temporary absence or to discuss a person whose name was submitted for consideration to fill a midterm vacancy or temporary absence. (H.B. 491)

Closed Meeting Exceptions *(Sections 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.
- Closed meeting provisions specifically relating to the Alcoholic Beverage Control Commission issuing a retail license were repealed. (S.B. 66)

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 *(Sections 52-4-207 and 52-4-209)*

- A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern them.
- A charter school board may conduct an electronic meeting that is in writing on a website under certain conditions. (H.B. 311)

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.

* A public body must provide annual training to its members on the requirements of the Open & Public Meetings Act (Section 52-4-104). This summary is intended for a state legislative audience and should not be construed as exhaustively addressing requirements of the act for other public bodies. The 2012 amendments to the act are underlined.