

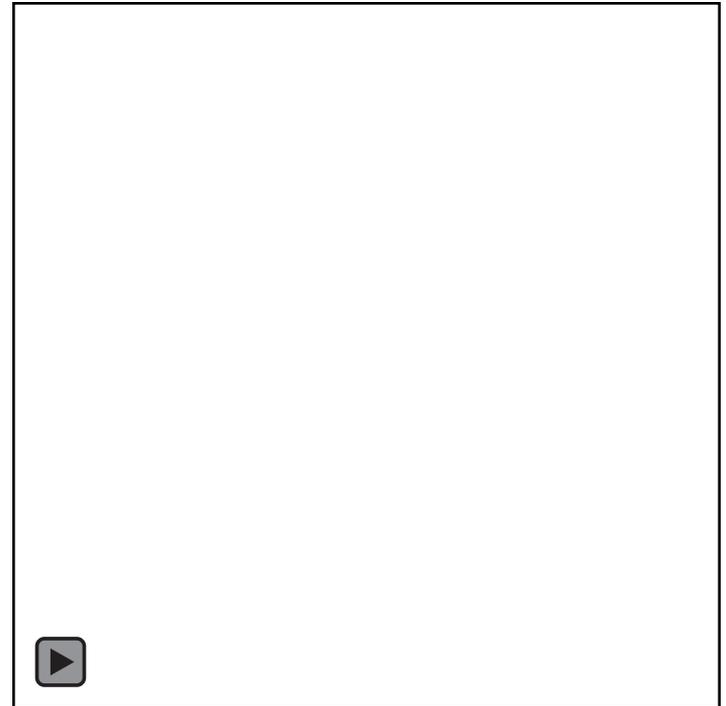
Open and Public Meetings Act

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PURPOSE

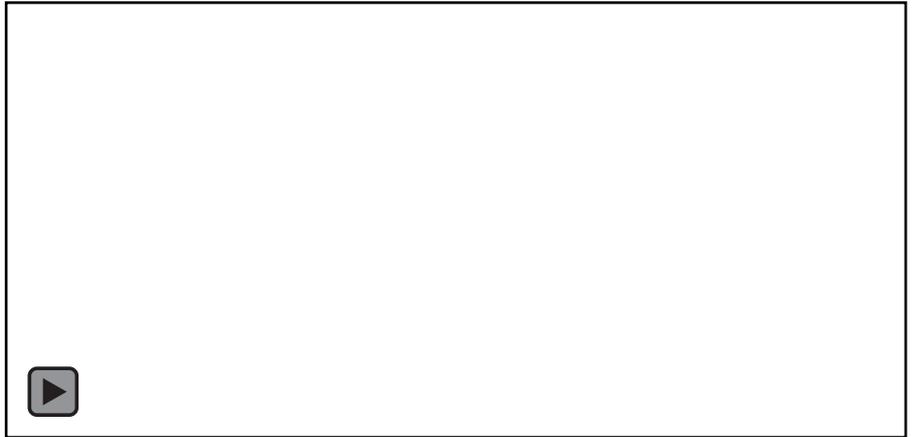
The state, its agencies and political subdivisions exist to aid in the conduct the people's business.

- Take Actions Openly
- Deliberate Openly



The RULE IS . . .

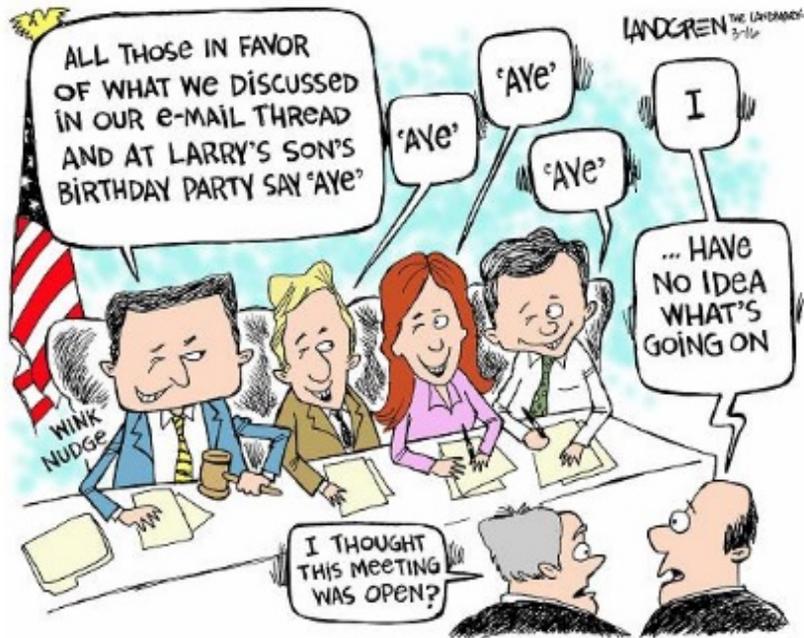
**MEETINGS
ARE OPEN TO
THE PUBLIC,**
including quorum
workshops & executive
sessions



Open Actions and Deliberations

ANTITHESIS OF OPEN MEETING

OPEN AND PUBLIC MEETINGS



Workshops & Executive Sessions:

Must be held at same location if held on same day as regularly scheduled meeting, unless . . .

- Regular meeting is held elsewhere and Workshop/Executive Session is at the regular place,
- Any of the meetings are a site visit or traveling tour,
- It is an electronic meeting, or
- It is an emergency meeting and impracticable to hold at regular location

WHAT IS A MEETING?

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.

Not a Meeting: a social or chance meeting.

****When in doubt, err on the side of following the Open and Public Meetings Act.****



ATTENDANCE

DO I HAVE TO ATTEND MEETINGS, OR CAN MEETINGS BE HELD WITHOUT PEOPLE ALL IN THE SAME ROOM?

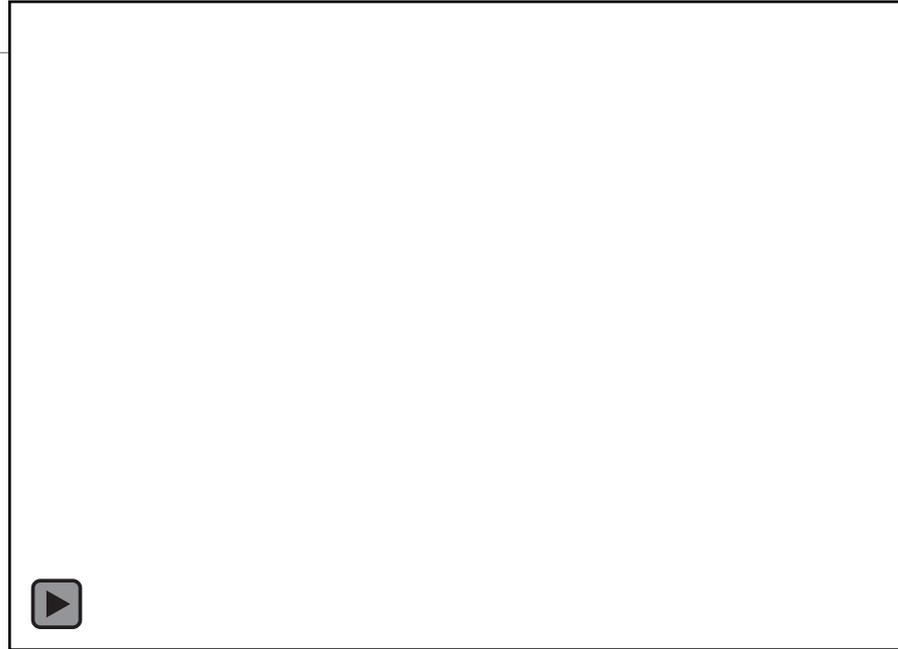


"I've called this meeting to discuss absenteeism."

ELECTRONIC MEETINGS

Electronic meetings (phone, computer, or other electronic means), if provided for by bylaws, are permitted.

- Notice Requirements Apply
- Public Must Have Means to Attend or Participate
- Have Anchor Location (normal meeting site) – where meeting originates



Can A Meeting Be Closed? If So, When?



A Meeting May Be Closed For:

- Discussions of a person's character, professional competence, or physical or mental health
- Discussions of security personnel, devices or systems
- Investigative proceedings regarding allegations of criminal misconduct
- Strategy sessions for pending/imminent litigation
- Strategy sessions for collective bargaining
- Strategy sessions to discuss purchase, exchange, lease or sale of real property, if public discussion would prevent best terms
 - **Public notice of terms and public notice of approval of sale required

Is There A Process To Close A Meeting?

Yes!

A properly noticed public meeting must be held before entering into a closed session AND

- A quorum must be present
- 2/3 must vote to close the meeting
- The body must publicly announce and enter into the minutes:
 - **Reason(s)** for holding the closed meeting
 - **Location** where closed meeting will be held
 - Vote **by name** of each member, for and against, on the motion to have a closed meeting



What Is Forbidden During A Closed Meeting?

You May Not:

- Discuss topics outside of the purpose for the closed meeting
- Take **final action**, including approving a resolution, rule, regulation, contract or appointment



Are There Any Meetings That **MUST** Be Closed?

NO

Your decision to close a meeting to the public is **always discretionary**, not mandatory. The law does not require any meeting to be closed.





Public Notice Requirements

Give at least 24 hours notice of date, time, and place of meeting, including an agenda, specific enough to inform the public.

Public Notice musts:

- Annual public notice of date, time & place of meeting schedule
- Post all notices at office and on Utah Public Notice Website <http://www.utah.gov/pmn/index.html>; and
- Provide to a newspaper or local media correspondent – *subscription service of Public Notice Website satisfies this requirement*

What About Emergencies?

The law allows for meetings to consider “emergency or urgent” matters IF:

- An attempt is made to:
 - Notify all members; and
 - A majority of members approve holding the emergency meeting
- The best notice practicable is given of:
 - Time, place and location of emergency meeting
 - The topics to be considered at the emergency meeting
- The minutes include a statement of the unforeseen circumstances that made the meeting necessary



WHAT ARE THE REQUIREMENTS FOR THE MEETING RECORDS?

OPEN MEETINGS

Audio Recording -

- A complete unedited recording of the public meeting, from commencement to adjournment
- Made available to the public within **3 business days** of the meeting
- Not required for site visit or travel tour, if no vote/action taken

Written Minutes -

- Pending minutes made available to public within reasonable time and clearly identified as “unapproved”
- Approved minutes made available to public within **3 business days** of approval
- **Are the official record of the meeting**

CLOSED MEETINGS

Audio Recording -

- A complete unedited recording of the closed meeting, from commencement to adjournment
- Except when discussing character, health, etc. or security matters. Then presiding person signs sworn statement as to purpose of the closed meeting.

Written Minutes -

- **MAY** keep detailed written minutes

Both recording and minutes are **protected records** under GRAMA, but may be released with a court order

WHAT ARE THE MINUTE REQUIREMENTS?



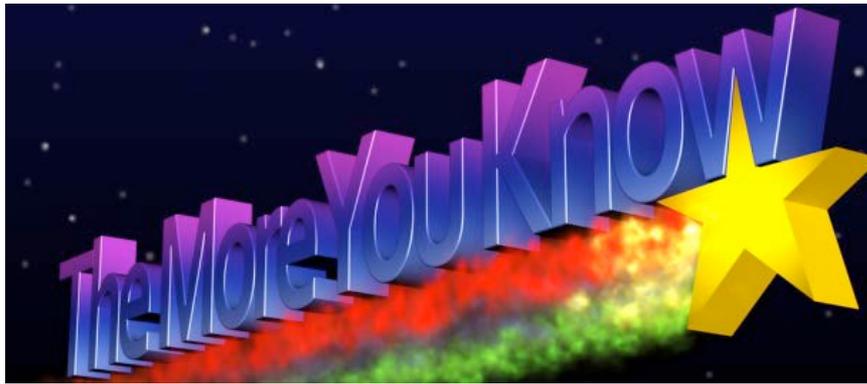
OPEN MEETINGS

- Date, time and place
- Names of members present and absent
- Substance of all matters proposed, discussed or decided
 - **May** include summary of comments by members
- Record **by individual member** of votes taken
- Name of any non-member who is recognized and comments or provides testimony
 - The substance, in brief, of the comments or testimony given
- Any other information that a member requests to be part of the record

CLOSED MEETINGS

Minutes and Recordings shall include:

- Date, time and place
- Names of members present and absent
- Names of all others present except if disclosure infringes on necessary confidentiality to fulfill purpose of closed meeting



You may discuss a topic raised by the public that is not listed on the agenda, but may not take final action on the topic

You may only take a final action if the topic is listed on the agenda and part of the advance public notice

Any person in attendance may record the meeting as long as the recording does not interfere with the meeting

You may remove a person from a meeting if they are willfully disrupting the meeting to the extent that its orderly conduction is seriously compromised

VIOLATIONS OF THE OPMA



- It is a class B misdemeanor for a member of a public body to **knowingly or intentionally** violate or abet or advise a violation of any closed meeting provisions
- A court may void any final action in violation of the law
- May have to pay court costs and attorney fees
- Sometimes a violation can be “cured” by noticing up, discussing and taking a public vote in a subsequent meeting



WHO CAN ENFORCE OPMA AND WHEN?

- Attorney General
- County Attorneys
- Any person denied rights under OPMA





COMMON VIOLATIONS

Closing a meeting without first voting on a motion to close in an open meeting

Conducting a closed meeting for reasons other than those allowed by the Act

Taking an official or final action in a closed meeting

Failing to provide proper notice of a public meeting

Failing to provide adequate notice of a public meeting (descriptions of agenda items that do not meet the “reasonable specificity” requirement).

Taking action on an item not listed on the agenda

Questions?

