

# Public Meetings Act

Wyo. Stat. Ann. §§ 16-4-401 through  
16-4-408

# Statement of purpose

- The Wyoming Legislature enacted the Public Meetings Act because the “agencies of Wyoming exist to conduct public business.” § 16-4-401.
- Accordingly, “[c]ertain deliberations and actions shall be taken openly as provided in this act.” *Id.*
- To effectuate the goals of the Act, fair and reasonable advance notice of meetings should be provided to the public.

# Definitions

- There are 4 key definitions in the Act pursuant to § 16-4-402:
  - **“Action”** means the “transaction of official business of an agency including a collective decision, a collective commitment or promise to make a positive or negative decision, or an actual vote upon a motion, proposal, resolution, regulation, rule, order or ordinance at a meeting.”
  - **“Agency”** means “any authority, bureau, board, commission, committee, or subagency of the state, a county, a municipality or other political subdivision which is created by or pursuant to the Wyoming constitution, statute or ordinance, other than the state legislature and the judiciary.”
  - **“Meeting”** means “an assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the expressed purpose of discussion, deliberation, presentation of information or taking action regarding public business.”
  - **“Assembly”** means “communicating in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously.”

## Openness, public participation, & minutes [16-4-403]

- All meetings of the governing body of an agency are “public meetings, open to the public at all times, except as otherwise provided.”
  - No action of a governing body of an agency “shall be taken except during a public meeting following notice of the meeting in accordance with this act.”
  - Action taken at a meeting not in conformity with this act “is null and void and not merely voidable.”

## Openness, public participation, & minutes [16-4-403] (continued)

- No member of the public may be required “as a condition of attendance at any meeting to register his name, to supply information, to complete a questionnaire, or fulfill any other condition precedent to his attendance.”
  - However, a “person seeking recognition at the meeting may be required to give his name and affiliation.”

## Openness, public participation, & minutes [16-4-403] (continued)

- Minutes of a meeting:
  - Must be recorded.
  - If no action is taken by the governing body, then minutes do not need to be published.
- There is no requirement that minutes be recorded or published for the day-to-day administrative activities of an agency, or for the day-to-day activities of officers and personnel.

## Openness, public participation, & minutes [16-4-403] (continued)

- “No meeting shall be conducted by electronic means or any other form of communication that does not permit the public to hear, read or otherwise discern meeting discussion contemporaneously.”
- “Communications outside a meeting, including, but not limited to, sequential communications among members of an agency, shall not be used to circumvent the purpose of this act.”
  - No email chains or “reply all’s”
  - No mass instant messages
  - No mass texts

# Types of meetings, notice, and recess

## [16-4-404]

- In the absence of a statutory requirement, “the governing body of an agency shall provide by ordinance, resolution, bylaws or rule for holding regular meetings unless the agency's normal business does not require regular meetings in which case the agency shall provide notice of its next meeting to any person who requests notice.”
  - A member of the public may submit a request to the agency, requesting notice of the agency’s future meetings.
    - This public request for notice must be in writing, and must be renewed on an annual basis.
- Day-to-day administrative activities of an agency, its officers and its employees is not be subject to notice requirements.

# Types of meetings, notice, and recess

## [16-4-404] (continued)

- Special meetings may be called by the presiding officer of a governing body by giving “verbal, electronic or written notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice.”
  - The notice must specify the time and place of the special meeting and describe the business to be transacted.
  - The notice must be issued at least 8 hours prior to commencement of the meeting.
  - “No other business shall be considered at a special meeting.”
    - Translation: If an agenda item is not listed in the notice, or not described in sufficient-enough detail, it may NOT be covered at the meeting.
  - “Proof of delivery of verbal notice to the newspaper of general circulation, radio or television station may be made by affidavit of the clerk or other employee or officer of the agency charged or responsible for distribution of the notice of the meeting.”

## Types of meetings, notice, and recess [16-4-404] (continued)

- The governing body of an agency “may recess any regular, special, or recessed regular or special meeting to a place and at a time specified in an order of recess.”
- A copy of the order of recess must be **conspicuously** posted on or near the door of the place where the meeting or recessed meeting was held.

# Types of meetings, notice, and recess

## [16-4-404] (continued)

- The governing body of an agency may “hold an emergency meeting on matters of serious immediate concern to take temporary action without notice.” However, reasonable effort must be made to offer public notice of such meetings.
- “All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting” within 48 hours, excluding weekends and holidays, unless the “event constituting the emergency continues to exist” after 48 hours.
  - When this occurs, “the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency, but in no event later than 30 days from the date of the emergency action.”

# Executive sessions [16-4-405]

- An executive session is an agency meeting that is not open to the public. Executive sessions are permissible but **\*\*only\*\*** under certain, limited circumstances.
- The general categories of situations allowing an executive session are:
  - Security threats/threats to property
  - Threats that could harm the public if they attended
  - Employment/personnel/human resources matters
  - When legal advice is obtained/discussing litigation or other legal matters
  - Preparing, grading, or administering license exams
  - When considering real estate purchases
  - When discussing “anonymous” gifts, donations, or bequests
  - When discussing any information specifically categorized as “confidential” under the law

# Executive sessions [16-4-405]

## (continued)

- Minutes must be maintained of all executive sessions.
  - With the exception of any portion of executive session minutes where a member objects to the executive session as being in violation of this act, minutes and proceedings of executive sessions shall be confidential, and shall be produced only in response to a valid court order.
- “Unless a different procedure or vote is otherwise specified by law, an executive session may be held only pursuant to a motion that is duly seconded and carried by majority vote of the members of the governing body in attendance when the motion is made.”
  - “A motion to hold an executive session which specifies any of the reasons set forth in paragraphs (a)(i) through (xi) of this section shall be sufficient notice of the issue to be considered in an executive session.”

## Disruption of public meetings [16-4-406]

- If any public meeting is willfully disrupted by a person or group of persons, and the orderly conduct of the meeting becomes unfeasible, and order cannot be restored by the removal of the person or persons who are willfully interrupting the meeting, then the governing body of an agency may order the removal of the person or group from the meeting room and continue in session.
- Or, they may recess the meeting and reconvene at another location.
  - Only matters appearing on the agenda may be acted upon in a meeting recessed to another location.

## Disruption of public meetings [16-4-406] (continued)

- A governing body of an agency shall establish procedures for readmitting an individual or individuals not responsible for disturbing the conduct of a meeting.
- Reminder: Duly accredited members of the press or other news media except those who participated in a disturbance shall be allowed to attend any meeting permitted by this section.

## Conflict of law [16-4-407]

- “If the provisions of this act conflict with any other statute, the provisions of this act shall control.”

## Penalty [16-4-408]

- Any member or members of an agency who knowingly or intentionally violate the provisions of this act shall be liable for a civil penalty not to exceed seven hundred fifty dollars (\$750.00) except as provided in this subsection.
  - “Any member of the governing body of an agency who attends or remains at a meeting knowing the meeting is in violation of this act shall be liable under this subsection, **\*\*unless\*\*** minutes were taken during the meeting and the parts thereof recording the member's objections are made public or at the next regular public meeting the member objects to the meeting where the violation occurred and asks that the objection be recorded in the minutes.”
- “If any action is prohibited both by this act and any provision of title 6, the provisions of this act shall not apply and the provisions of title 6 shall apply.”
  - Translation: if a person’s action violates **\*\*both\*\*** the Public Meetings Act **\*\*and\*\*** a different criminal statute, then the person will face the **\*\*more serious charges.\*\***
    - For example, physically removing or threatening a person with harm if he doesn’t leave the meeting could be charged as assault/battery.



# Public Records Act

*Wyoming Statute Annotated §§ 16-4-201 through 16-4-205*

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## What are public records laws?

- The Wyoming Public Records Act was enacted to improve government by increasing transparency and public awareness of their government.
- Often referred to as a “sunshine law” or “FOIA” (short for “Freedom of Information Act”).

# Definitions [16-4-201]

- Section 201 provides the following key definitions:
  - “Custodian”
  - “Official custodian”
  - “Person in interest”
  - “Political subdivision”
  - “Public records,” “Official public records,” and “Office files and memoranda”
  - “Application”
  - “Information”



## Right of inspection, rules and regulations, and unavailability of records [16-4-202]

- “All public records shall be open for inspection by any person at reasonable times, during business hours of the state entity or political subdivision, except as provided in this act or as otherwise provided by law, but the official custodian of any public records may make rules and regulations with reference to the inspection of the records as is reasonably necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.”



## Right of inspection, rules and regulations, and unavailability of records [16-4-202] (continued)

- If the public records requested are not in the custody or control of the person to whom application is made, the custodian or authorized person having personal custody and control of the public records shall notify the applicant within seven (7) business days from the date of acknowledged receipt of the request of the unavailability of the records sought, unless good cause exists preventing a response within such time period.
  - In the event the applicant is not satisfied that good cause exists, the applicant may petition the district court for a determination as to whether the custodian has demonstrated good cause existed.



## Right of inspection, rules and regulations, and unavailability of records [16-4-202] (continued)

- If the public records requested are in the custody and control of the person to whom application is made but are in active use or in storage, and therefore not available at the time an applicant asks to examine them, the custodian or authorized person having personal custody and control of the public records shall notify the applicant of this situation within seven (7) business days from the date of acknowledged receipt of the request, unless good cause exists preventing a response within such time period.
  - In the event the applicant is not satisfied that good cause exists, the applicant may petition the district court for a determination as to whether the custodian has demonstrated good cause existed.
  - If a public record is readily available, it shall be released immediately to the applicant so long as the release does not impair or impede the agency's ability to discharge its other duties.



## Right of inspection, rules and regulations, and unavailability of records [16-4-202] (continued)

- If a public record exists primarily or solely in an electronic format, the custodian of the record shall so inform the requester.
- Electronic record inspection and copying shall be subject to the following:
  - The reasonable costs of producing a copy of the public record shall be borne by the party making the request. The costs may include the cost of producing a copy of the public record and the cost of constructing the record, including the cost of programming and computer services.
  - An agency shall provide an electronic record in alternative formats unless doing so is impractical or impossible.
  - An agency shall not be required to compile data, extract data or create a new document to comply with an electronic record request if doing so would impair the agency's ability to discharge its duties.
  - An agency shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.
  - Nothing in this section shall prohibit the director of the office of homeland security from enacting any rules pursuant to his authority.

Right of inspection, grounds for denial of inspection, access of news media, orders for permitting or restricting disclosure, and exceptions [16-4-203]

- Circumstances under which the custodian SHALL NOT allow inspection
- Circumstances where the custodian MAY DENY inspection (i.e. where the custodian has discretion)
- If the right of inspection of any record is allowed to any officer or employee of any newspaper, radio station, television station or other person or agency in the business of public dissemination of news or current events, it may be allowed to all news media.

Right of inspection, grounds for denial of inspection, access of news media, orders for permitting or restricting disclosure, and exceptions [16-4-203] (continued)

- If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial. The statement shall cite the law or regulation under which access is denied and shall be furnished to the applicant.
- Any person denied the right to inspect any record covered by this act may apply to the district court of the district wherein the record is found for any order directing the custodian of the record to show cause why he should not permit the inspection of the record.

Right of inspection, grounds for denial of inspection, access of news media, orders for permitting or restricting disclosure, and exceptions [16-4-203] (continued)

- If, in the opinion of the official custodian of any public record, disclosure of the contents of the record would do substantial injury to the public interest, notwithstanding the fact that the record might otherwise be available to public inspection, he may apply to the district court of the district in which the record is located for an order permitting him to restrict disclosure.
- After hearing, the court may issue an order upon a finding that disclosure would cause substantial injury to the public interest. The person seeking permission to examine the record shall have notice of the hearing served upon him in the manner provided for service of process by the Wyoming Rules of Civil Procedure and has the right to appear and be heard.

Right of inspection, grounds for denial of inspection, access of news media, orders for permitting or restricting disclosure, and exceptions [16-4-203] (continued)

- Rules unique to the Wyoming Natural Diversity Database, which is located at the University of Wyoming, and any report prepared from that database



## Right of inspection, copies, printouts, photographs, and fees [16-4-204]

- In all cases in which a person has the right to inspect and copy any public records he may request that he be furnished copies, printouts or photographs for a reasonable fee to be set by the official custodian.
- Where fees for certified copies or other copies, printouts or photographs of the record are specifically prescribed by law, the specific fees shall apply.
- **Nothing in this section shall be construed as authorizing a fee to be charged as a condition of making a public record available for inspection.**



## Right of inspection, copies, printouts, photographs, and fees [16-4-204] (continued)

- If the custodian does not have the facilities for making copies, printouts or photographs of records which the applicant has the right to inspect, then the applicant shall be granted access to the records for the purpose of making copies, printouts or photographs.
- The copies, printouts or photographs shall be made while the records are in the possession, custody and control of the custodian thereof and are subject to the supervision of the custodian. When practical the copy work shall be made in the place where the records are kept, but if it is impractical to do so, the custodian may allow arrangements to be made for this purpose.
- If other facilities are necessary the cost of providing them shall be paid by the person desiring a copy, printout or photograph of the records.
- The official custodian may establish a reasonable schedule of time for making copies, printouts or photographs and may charge a reasonable fee for the services rendered by him or his deputy in supervising the copying, printing out or photographing as he may charge for furnishing copies under this section.



## Right of inspection, copies, printouts, photographs, and fees [16-4-204] (continued)

- Any fees or charges assessed by a custodian of a public record shall first be authorized by duly enacted or adopted statute, rule, resolution, ordinance, executive order or other like authority.
- All state agencies may adopt rules and regulations pursuant to the Wyoming Administrative Procedure Act establishing reasonable fees and charges that may be assessed for the costs and services set forth in this section.
- The department of administration and information shall adopt uniform rules for the use of state agencies establishing procedures, fees, costs and charges for inspection, copies and production of public records under W.S. 16-4-202(d)(i), 16-4-203(h)(i) and 16-4-204.

## Civil penalty [16-4-205]

- Any person who knowingly or intentionally violates the provisions of this act is liable for a penalty not to exceed seven hundred fifty dollars (\$750.00).
- The penalty may be recovered in a civil action and damages shall be assessed by the court.
- Any action pursuant to this section shall be initiated by the attorney general or the appropriate county attorney.

# Ethics and Disclosure Act

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**WYOMING STATUTE §§ 9-13-101  
THROUGH 9-13-109**

# What is the overall purpose of the Act?

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- To prevent corruption and abuse of public positions.
- “No public official, public member or public employee shall use his office or position for his private benefit.” Wyo. Stat. Ann. § 9-13-103(a).
- “Private benefit” means “the receipt by the public official, public member or public employee of a gift which resulted from his holding that office.” *Id.* § 9-13-103(b).

# Definitions of terms under the Act

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- Wyoming Statute Annotated § 9-13-102 provides a **\*\*comprehensive\*\*** list of definitions under this Act.
- Definitions are provided for terms including:
  - “Anything of value”
  - “Compensation”
  - “Family member”
  - “Gift”
  - “Local office”
  - “Negotiating” for employment
  - “Official responsibility” or “official capacity”
  - “Participation”
  - “Public employee,” “public member,” and “public official”
  - “State entity” and “state office”

# Official decisions and votes

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- A public official, public member or public employee “shall not make an official decision or vote on an official decision if the public official, public member or public employee has a personal or private interest in the matter.” Wyo. Stat. Ann. § 9-13-106(a).
  - In determining whether he has a personal or private interest in a matter the public official “shall recognize the importance of his right to represent his constituency and shall abstain from voting only in clear cases of a personal or private interest as defined in this subsection.” *Id.*
  - A public official or public member shall not “vote to give money or any direct financial benefit to himself except for tax reductions affecting the general public.” *Id.*

# Official decisions and votes (continued)

- Under the Act, a personal or private interest:
  - “Is, with respect to the public official, public employee or public member, an interest which is direct and immediate as opposed to speculative and remote.” *Id.* § 9-13-106(a)(i).
  - “Is an interest that provides the public official, public employee or public member, a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.” *Id.* § 9-13-106(a)(ii).
  - If either of these conditions exists, then the public person “shall abstain from voting on the decision and from making any official decision in the matter.” *Id.* § 9-13-106(b).
    - ✦ This abstention from voting “must be recorded in the governmental entity's official records.” *Id.*

# Misuse of office

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- A public official, public member or public employee “shall not use public funds, time, personnel, facilities or equipment for his private benefit or that of another unless the use is authorized by law.” Wyo. Stat. Ann. § 9-13-105(a).
- Or, if the use is “[p]roperly incidental to another activity required or authorized by law and the public official, public employee or public member allocates and reimburses the governmental entity for any additional costs incurred for that portion of the activity not required or authorized by law.” *Id.* § 9-13-105(b).

## Misuse of office (continued)

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- A public official, public member or public employee “shall not disseminate to another person official information which the public official, public employee or public member obtains through or in connection with his position, unless the information is available to the general public or unless the dissemination is authorized by law.” Wyo. Stat. Ann. § 9-13-105(c).
  - Insider trading, white collar crime, etc.

# Nepotism

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- **The Act defines and prohibits actions constituting nepotism under Wyo. Stat. Ann. § 9-13-104:**
  - “No public official, public member or public employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member to an office or position of the state, a county, municipality or a school district.”
  - “A public official, public member or public employee shall not supervise or manage a family member who is in an office or position of the state, a county, municipality or school district.”
  - “A public official, public member or public employee, acting in his official capacity, shall not participate in his official responsibility or capacity regarding a matter relating to the employment or discipline of a family member.”

# Actions taken while negotiating for employment

- A public official, public member or public employee may not “vote or take an official action in a matter affecting a person with whom the public official, public member or public employee is negotiating for prospective employment.” Wyo. Stat. Ann. § 9-13-107.
  - No case law interpreting this, but based upon the language there could be 2 situations that are impermissible:
    - ✦ 1. (Most obvious): The public person may not undertake an action for a potential employer (i.e. an employer he recently applied to) in order to “curry favor” from that potential employer.
    - ✦ 2. (Perhaps not so obvious): A public person who serves as an employer/hirer shall not undertake an action vis-à-vis someone who has applied to him for a job which could alter the employment-negotiation dynamics.

# Penalties

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- A number of penalties may result from violations of the Act pursuant, to Wyo. Stat. Ann. § 9-13-109:
  - A misdemeanor conviction, punishable by a fine of not more than \$1,000.00.
  - Violation of any provision of the Act “constitutes sufficient cause for termination of a public employee's employment or for removal of a public official or public member from his office or position.”
  - “If any action is prohibited both by this act and any provision of title 6, the provisions of this act shall not apply and the provisions of title 6 shall apply.”
    - ✦ Translation: If a person's action violates **\*\*both\*\*** the Ethics and Disclosure Act **\*\*and\*\*** a different criminal statute, then the person will face the **\*\*more serious charges.\*\***
      - For example, felony charges for blackmail, fraud, identity theft, etc.