



THE OPEN MEETINGS ACT

A SUMMARY

Prepared by

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1. What is the purpose of the Open Meetings Act?

Answer: The overriding principle of the Act is that government should conduct its business in an open manner.

The Act expressly provides that “all **meetings** of the **governing body of an agency** are open to the public at all times, except as otherwise provided.” See WYO. STAT. § 16-4-403 (emphasis added). Public access to government agencies, boards and commissions is critical to a representative form of government. Governmental boards and commissions are essentially engaged in the **public’s** business. The first duty of government is to serve the public. Holding public meetings insures that all affected people are permitted an opportunity to be heard on issues that are important to their lives. Boards, commissions, and sub-agencies within departments or agencies of government are required to comply with the Open Meetings Act as set forth in this handbook.

For answers to specific questions concerning open meetings or actions which may be subject to the Open Meetings Act, contact the Wyoming Attorney General’s Office.

2. Who is subject to the Open Meetings Act?

Answer: Meetings of State boards and commissions are subject to the Act’s requirements. Meetings of directors of departments and State stand-alone agencies are not covered under the Act.

A. State Boards and Commissions:

[T]he act applies to multi-member state boards and commissions such as the Wyoming Liquor Commission, the Public Service Commission, Wyoming Highway Commission, Wyoming Game and Fish Commission, Employment Security Commission, Oil and Gas Conservation Commission, and the like.

See Attorney General Opinion No. 17, dated August 3, 1973.

B. Directors and Stand-Alone Agencies:

[W]here the law governing a particular agency vests the full responsibility and authority for the agency’s decisions in a single individual (*e.g.*, Tax Commissioner, Director of Department of Administration and Fiscal Control, Insurance

Commissioner, State Examiner, State Engineer), the Act does not apply, since such an individual is not a 'governing body,' within the definition of the Act.

See Attorney General Opinion No. 17, dated August 3, 1973.

3. Does the Act apply to “sub-agencies?”

Answer: Yes.

Some agencies headed by a single officer or agency head have “sub-agencies,” which consist of a multi-member governing board. Sub-agencies, such as the Board of Control, which is part of the State Engineer’s Office, must comply with the Act.

However, *ad hoc* advisory committees are not covered. An example of an *ad hoc* advisory committee is the gathering together of several multi-member boards and/or several agency heads for a particular purpose not considered an agency action, such as advising the Governor as to a particular problem or objective.

4. When does the Act apply?

Answer: Generally, the Act applies if at least a quorum of the members of a governing body meet, even informally, in order to consider matters which are within the agency’s official business.

Under the Act, all meetings of the governing body of an agency are public meetings, open to the public at all times, except as otherwise provided, and no action may be taken except during a public meeting. As defined by statute, “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 purpose of discussion, deliberation, presentation of information or taking action regarding public business. See Wyoming Attorney General Opinion 17, Part B, dated August 3, 1973. See also WYO. STATS. §§ 16-4-402(a)(i) and (iii), and 16-4-403. **So, the Act applies to informal discussion about public business amongst a quorum of the members of a governing body.**

The day-to-day administrative activities of an agency are not subject to the Act’s notice requirements. This provision refers to work done by county commissioners. Thus, neither the Act nor its notice requirements apply to daily administrative tasks performed by

county commissioners which are not considered agency action. *See* WYO. STAT. § 16-4-404(e).

5. Does the Act cover deliberations after a contested hearing?

Answer: Yes.

Because all “meetings” of a governing body of an agency are considered public meetings, open to the public at all times (*see* WYO. STAT. § 16-4-403), deliberation by a governing board after a contested hearing, but before an agency decision is rendered, is subject to the Act. Excepted from this requirement are deliberations by the governing board following personnel hearings and professional licensing hearings, as addressed below, and other executive sessions expressly exempted under WYO. STAT. § 16-4-405.

6. What are the notice requirements under the Act?

Answer: No action of a government body of an agency is to be taken except during a public meeting **following notice of the meeting**. The Act contemplates fair and reasonable advance notice of meetings. The notice requirements vary and are set out below:

A. Regular Meetings

In absence of a statute setting out a schedule or requirement for regular meetings, a governing body is required, by ordinance, resolution, bylaws, or rule, to hold regular meetings, unless the agency’s normal business does not require regular meetings. Under the Act, the governing body shall provide notice of its meeting to any person who requests notice. The governing body must also comply with notice requirements in other statutes, outside the Act, that require them to provide notice to certain persons.

Under the Act, the notice requirement may be fulfilled by mailing a copy of the meeting schedule or resolution setting the next meeting to whomever has made a request for notice. No particular form of notice is required as long as it specifies clearly the name of the agency holding the meeting, the specific date, time and place of the meeting, and the general or specific purpose. Again, if a particular statute or ordinance, outside the Act, mandates special notice requirements for the particular governing body or situation at hand, then those requirements must be followed.

When notice under the Act is to be given, the agency should give sufficient advance notice of the meeting to the local news media to enable media representatives to attend the

meeting. The Act does not specifically require that notice be made statewide. Nevertheless, whenever possible, agencies should adopt a regular meeting schedule, providing for an adequate number of scheduled meetings so that special meetings can be limited to the smallest number possible, and so notice of meeting schedules may be given to media representatives who normally cover the affairs of each agency or have requested notice of such meetings.

See Attorney General Opinion No. 17, dated August 3, 1973.

B. Special Meetings

The presiding officer of a governing body may call special meetings if timely notice of the meeting is provided to each member of the governing body and to each newspaper of general circulation, radio, and television station requesting notice. The notice shall specify the time and place of the special meeting and the business to be transacted. **No other business may be considered at a special meeting.**

See Wyoming Attorney General Opinion No. 17, dated August 3, 1973; *see also* WYO. STAT. § 16-4-404(b).

C. Recess of Meetings

A regular or special meeting may be recessed (cancelled or moved to another location) by the governing body to a place and at a time specified in the "order of recess." A copy of the order of recess is to be conspicuously displayed on or near the door of the place where the meeting or recessed meeting was held. *See* WYO. STAT. § 16-4-404(c).

D. Emergency Meetings

Governing bodies may hold emergency meetings on matters of serious immediate concern to take temporary action without notice. However, governing bodies shall make a reasonable effort to provide public notice. **All actions taken at an emergency meeting are temporary. In order for actions taken at an emergency meeting to become permanent, they must be reconsidered and action taken at an open public meeting within 48 hours.** *See* WYO. STAT. § 16-4-404(d). Thus, action taken on a Friday afternoon must be reconsidered by Sunday afternoon.

7. Does the Act apply to meetings conducted by telephone or videoconference?

Answer: Yes.

In interpreting the legislative intent of the Act, it is the opinion of the Wyoming Office of the Attorney General that the Act applies to telephonic and video conferences where a quorum of members of a governing board of an agency gather together by telephone communication or videoconference to participate in agency business covered by the Act.

In notifying interested parties of the conference, the same notice requirements would apply as addressed in Paragraph 7 above.

See Attorney General Opinion No. 17, Part B, dated August 3, 1973.

8. Does the Act require that minutes be taken?

Answer: Minutes must be taken at all meetings, regardless of whether official action has been taken.

If no action is taken, the minutes do not need to be published in a newspaper, however, they should be available for public examination. *See* WYO. STAT. § 16-4-403(c).

9. When can a governing body go into executive session?

Answer: A governing body may go into executive session when any of the events listed in WYO. STAT. § 16-4-405(a) occur and a member makes a motion to go into executive session, it is seconded and the motion carries by a majority of members in attendance when the motion is made.

WYO. STAT. § 16-4-405(a) provides that governing bodies may hold executive sessions in the following situations:

(i) With the attorney general, county attorney, district attorney, city attorney, sheriff, chief of police or their respective deputies, or other officers of the law, on matters posing a threat to the security of public or private property, or a threat to the public's right of access;

(ii) To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the employee,

professional person or officer requests a public hearing. The governing body may exclude from any public or private hearing during the examination of a witness, any or all other witnesses in the matter being investigated. Following the hearing or executive session, the governing body may deliberate on its decision in executive sessions;

(iii) On matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party;

(iv) On matters of national security;

(v) When the agency is a licensing agency while preparing, administering or grading examinations;

(vi) When considering and acting upon the determination of the term, parole or release of an individual from a correctional or penal institution;

(vii) To consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause a likelihood of an increase in price;

(viii) To consider acceptance of gifts, donations and bequests which the donor has requested in writing be kept confidential;

(ix) To consider or receive any information classified as confidential by law;

(x) To consider accepting or tendering offers concerning wages, salaries, benefits and terms of employment during all negotiations;

(xi) To consider suspensions, expulsions or other disciplinary action in connection with any student as provided by law.

See WYO. STAT. § 16-4-405(a).

10. Do governing bodies need to take minutes at executive sessions?

Answer: Yes.

Minutes shall be maintained of any executive session. Minutes and proceedings of executive sessions shall be confidential and produced only in response to a court order, except for portions of minutes reflecting a member's objection to the executive session.

See WYO. STAT. § 16-4-405(b).

11. Are there penalties for not complying with the Act?

Answer: Yes.

Taking an action which violates the Open Meetings Act is a misdemeanor. In addition, any member of a governing body who attends or remains at a meeting where an action is taken which violates the Open Meetings Act is guilty of a misdemeanor unless 1) the member objects, the objection is contained in the minutes, and the objection is made public at the next regular public meeting; or 2) at the next public meeting the member objects and has that objection recorded in the minutes.

In addition to the misdemeanor penalties listed above, any action taken at a meeting where the Open Meetings Act was not followed is null and void.