

# Open Meeting Law in Minnesota

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The Open Meeting Law requires that public business be conducted in public. The public has a right to attend the meeting and observe the transaction of public business. All formal and informal county board meetings, as well as county committee and subcommittee meetings, fall under this law. "Chance social gatherings" are exempt as long as no public business is discussed.

Neither the Open Meeting Law nor any other law guarantees the public an opportunity to speak during a meeting. The Open Meeting Law does not prevent the county board from adopting reasonable rules for the conduct of the meeting. Ultimately, the county board is responsible for conducting the public meeting and may restrict, order or adjust the flow of business in any manner it deems appropriate.

## Open Meeting Law Requirements

Under the Open Meeting Law, counties are required to maintain, in a journal, a record of all votes taken at open meetings. This journal must be available to the public during regular business hours. A copy of the agenda must be available to the public during the meeting, along with all written materials prepared by the county and distributed to members of the county board. This includes written materials distributed to board members during the meeting as well as materials distributed before the meeting. The only materials exempt are those that are classified as non-public under the Data Practices Act. (Minn. Stat. 471.705, subd. 1b.)

## Open Meeting Law Notice Requirements

Under the Open Meeting Law, there are three kinds of meetings subject to varying notice requirements. Regular meetings refer to those meetings which are conducted routinely or on a prescribed schedule. Counties are required to keep a schedule of regular meetings on file at its primary office. Special meetings refer to meetings that are not conducted as part of the normal routine but are planned far enough in advance to be scheduled. Counties must post a written notice of the date, time, place and purpose of the meeting on the county bulletin board and the notice must be mailed or otherwise delivered at least three days before the meeting to each person who has filed a written request for notice of special meetings. As an alternative to mailing the notice, a county may publish notice in the official newspaper three days prior to the special meeting.

If an emergency meeting is called, all news mediums that have filed a request for notice of special meetings must be informed of the emergency meeting, either by telephone or any other means. Notification of the emergency meeting must include the subject of the meeting. An emergency meeting is defined as "a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body." (Minn. State. 471.705, subd. 1c).

If a county board meeting or committee, special meeting or emergency meeting is recessed or continued, the meeting may be taken up without further notice, provided the time and place of the meeting was established during the previous meeting.

These notice requirements apply to all closed meetings as well as open meetings.

## Exceptions to Open Meeting Requirements

There are four situations when the county board can hold a closed meeting:

1. **TO DISCUSS LABOR RELATIONS STRATEGY.** This includes "negotiation strategies or developments or discussion and review of labor negotiation proposals" conducted in compliance with PELRA (Public Employee Labor Relations Association). While these meetings can be closed, the time and place of the meeting must be announced at an open meeting, a written roll of those attending the closed meeting must be made available to the public following the meeting, and a tape recording of the meeting must be made. This recording must be made available to the public after all contracts are signed and must be retained for two years after the last contract is signed. This is the only type of closed meeting that must be tape recorded.
2. **DURING A PRELIMINARY DISCUSSION OF ALLEGATIONS OR CHARGES AGAINST AN INDIVIDUAL SUBJECT TO THE COUNTY'S AUTHORITY.** The county board must close the meeting for a preliminary discussion of allegations or charges against an individual subject to the county's authority. If the board concludes that discipline is warranted, further meetings or hearings may also be closed if they are a continuation of the initial meeting. Note that the meeting must be open if the person who is the subject of the allegations/charges requests the meeting to be open.
3. **DURING EMPLOYEE PERFORMANCE REVIEWS.** The county board may close a meeting to review the performance of a county employee as long as the person who is to be reviewed is identified prior to closing the meeting, and the board summarizes the results of the meeting at the next open meeting. The meeting must be opened if the person subject to the review requests the meeting to be open.

**WHEN MEETING WITH COUNSEL TO DISCUSS ACTUAL OR THREATENED LITIGATION AGAINST THE COUNTY.** The county board may close a meeting to discuss actual or threatened litigation with counsel. The Court appears to place on council the burden of deciding appropriateness of closure under this exception, and encourages lawyers to use this exception sparingly. This exception cannot be used when seeking general legal advice from council nor if litigation is assumed but not actually threatened or filed.

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## Interactive Television and Open Meetings

The 1997 Minnesota Legislature passed a law that allows local government bodies to meet by interactive television if certain criteria are met. Specifically, the law states that interactive meetings are permissible provided that:

- All members of the body can hear and see each other;
- Members of the public present at the regular meeting location can see and hear all discussion and testimony and all votes of members of the body;
- At least one member of the body is physically present at the regular meeting place;
- And all required public notice is provided, and includes information that the meeting will be conducted via interactive television.

Under the law, each member of a body participating in the meeting via interactive television is considered present and can participate in all proceedings, as long as the organization's rules permit it.

## Violations of the Open Meeting Law

Anyone who believes the county board has violated the open meeting law can seek legal action against individual members of the board. This is done by going through the county's district court. Neither the county itself nor non-board members, such as the county auditor or the county coordinator, can be named in legal action resulting over violations of the Open Meeting Law.

Individual board members can face penalties of \$300 per Open Meeting Law violation and removal from office after the third violation and removal from office after the third violation. Board members may also be liable for court costs and opponent's attorney's fees of up to \$13,000.

According to the 1994 Open Meeting Law amendments, only willful violations of the law are subject to penalty. This means that "good faith" can qualify as a valid defense (i.e., reliance on an attorney's opinion that the meeting can be closed would probably provide a "good faith" defense).

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