

So, It's Time for ANOTHER Public Meeting

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topics to cover

- Review of the law
- Notice requirements
- Executive sessions

purpose of the law

- To open meetings of governing bodies to the public;
- To give notice of the time and place of meetings; and
- To make meetings accessible to those wishing to attend.
- No requirement to let the public talk.
- “Public meeting” vs “public hearing.”

definition

- Any meeting where a quorum of the decision-making body is present and is discussing or “deliberating toward” a matter of business is a public meeting.
- Any meeting of a body formed to advise a public body is a public meeting.
- Notice is required for all public meetings.

let's
discuss

Which of the following is allowed at a public meeting? (Choose all that apply.)

- A. Smoking.
- B. Meeting outside the district.
- C. Meeting on the second floor of a building with no elevator.
- D. Holding the meeting when no notice was given.
- E. Shouting at each other.

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For a seven-member board, which of the following is NOT a public meeting?

A. Three members call a fourth one on the phone, to discuss firing the manager.

B. Four members go fishing together.

C. The board chair sends a group email to the rest of the board to ask how they plan to vote at next week's board meeting.

D. Five members attend a work session at the home of the board chair, to hammer out some personnel policies.

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notice

“Do we really need to provide notice for *every* meeting?”

Yes, if feasible.

“How much notice is required?”

Provide *general* notice to the public at large, and *actual* notice to specifically interested persons:

- Executive session only: Same as for any other meeting.
- Special meeting: At least 24 hours' notice to public and media.
- Emergency meeting: As much notice as possible under the circumstances.

“Why bother? Nobody ever comes to our meetings anyway.”

It doesn't matter if no one comes. They have to be given the opportunity to come, or at least to know what is being discussed.

“What if we don’t give proper notice?”

Any member of the media or anyone affected by a decision of the public body may sue.

- A successful suit makes the meeting illegal.
- Decisions may be voidable or void.
- Successful plaintiff can receive attorney fees.
- Board members can be held *personally* liable for abusing the executive session privilege; civil penalties up to \$1,000 per violation and attorney’s fees under Oregon’s Government Standards and Practices (ethics) laws.

minutes

“Do we have to take minutes at all our meetings?”

Yes.

“Can we tape record the meeting instead?”

Yes -- sound, video, or digital recording, or written minutes may be taken. Final transcript or recording must “give true reflection of matters discussed and views of the participants.” The public may be charged for the cost of a written transcript made from a recording.

“Can’t we just post a running notice somewhere, giving the time and date of the meetings?”

Yes, if the notice includes an agenda.

But if possible, you should publish notice for each general meeting, along with a proposed agenda.

“What should be in the minutes?”

At minimum:

- Names of every board member present.
- A general summary of each topic discussed.
- How each topic was resolved.
- The outcome of any votes taken, including who voted, and how.
- Reference to any document discussed at the meeting.

executive sessions

ORS 192.610 (2): “Executive session” means any meeting or part of a meeting of a governing body which is closed to certain persons for deliberation on certain matters.

Who may attend an executive session?

- Board members
- Anyone authorized by the board
- Member(s) of the media*

** Unless the executive session is to discuss litigation in which the news medium is a party.*

Meeting in executive session is called a
“privilege.”

Why?

Oregon Statutory Policy:

ORS 192.620. The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of [the public meetings law] that decisions of governing bodies be arrived at openly. [1973]

let's
practice

Need five volunteers.

No final votes – discussion only:

ORS 192.660(6). No executive session may be held for the purpose of taking any final action or making any final decision.

Can a board call an executive session
whenever it chooses?

ORS 192.630:

- (1) All meetings of the governing body of a public body shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610 to 192.690.

- (2) A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690.

notice

- Notice must be given for executive sessions as with any other public meeting.
- Notice should state the statutory authority for the executive session.
- The board chair also should state the statutory authority when convening the executive session.

minutes

- Minutes of executive session minutes are usually exempt from public records disclosure. But they can be reviewed by a court of law.
- Information discussed in executive session is confidential to the Board and anyone else who attends.
- Disclosure by one waives the right to confidentiality for everyone.

permissible reasons for executive sessions

192.660(2). Executive sessions permitted on certain matters.

(2) The governing body of a public body may hold an executive session:

- To consider the employment of a public officer, employee, staff member or individual agent, IF:
- Vacancy advertised;
- Regular hiring procedures adopted;
- If officer (e.g., management), public has had opportunity to comment;
- If CEO, hiring criteria and procedures were adopted in public meetings with opportunity for public comment

Does NOT apply to:

- (a) The filling of a vacancy in an elective office.
- (b) The filling of a vacancy on any public committee, commission or other advisory group.
- (c) The consideration of general employment policies.
- (d) The employment of the chief executive officer, other public officers, employees and staff members if requirements not met.

- To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing.
- To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

- To conduct deliberations with persons designated by the governing body to carry on labor negotiations.
- To conduct deliberations with persons designated by the governing body to negotiate real property transactions.
- To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.

- To consider information or records that are exempt by law from public inspection.
- To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

- To discuss information about review or approval of programs relating to the security of ... generation, storage or conveyance of:
 - Electricity;
 - Gas in liquefied or gaseous form;
 - Hazardous substances;
 - Petroleum products;
 - Sewage;
 - Water;
 - Telecommunication systems, including cellular, wireless or radio systems.
 - Data transmissions by whatever means provided.

penalty for violation

Failure to comply with executive session laws is punishable under Oregon's Ethics Laws for Public Officials.

It is personal to the elected official.

The maximum fine is \$1,000 per violation, but excused if decision made in reliance on advice of public body's legal counsel.

thank you!

- Eileen G. Eakins
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