


The Open Meeting Law

Minnesota Statutes, Chapter 13D



July 2009

Open Meeting Law (OML)

Minnesota Statutes, Chapter 13D

- With limited exceptions, all meetings of public bodies must be open to the public
- The OML includes provisions to encourage access to the decision-making processes of public bodies

July 2009

Purposes of the OML

Minnesota Supreme Court interpretation

- Prohibit “secret meetings”
- Ensure the public’s right to be informed
- Allow members of the public to be present at open meetings

July 2009

Meetings of a Public Body

Application of the OML to public bodies

July 2009

What is a public body?

- Not defined in the OML
- Broad application
- Possible exclusions:
 - Some ad hoc advisory committees
 - Some ad hoc sub-quorum delegations of public bodies

July 2009

Which public bodies are subject to the OML?

- State-level public bodies
- Local public bodies
- Committees, subcommittees, boards, departments, or commissions of state or local public bodies
- Governing bodies and committees of state and local public pension plans

July 2009

Which public bodies are not subject to the OML?

- Meetings of the Commissioner of Corrections
- State agencies, boards, or commissions that are:
 - exercising a quasi-judicial function
 - in disciplinary proceedings
- Other public bodies exempted by law

July 2009 7

What is a meeting of a public body?

- Not defined in the OML
- MN Supreme Court’s definition:
 - Gathering of a quorum of the public body
 - Transacting public business
- Chance and social gatherings are not meetings
- “Serial meetings” issue

July 2009 8

Can public bodies meet using interactive television?

- Yes, if:
 - All public body members can see and hear one another
 - The public can see and hear all discussion, testimony, and votes
 - At least one member is at regular meeting location
 - All locations are open to the public

July 2009 9

Can public bodies meet by telephone or other electronic means?

- Yes, if there is a health pandemic or declared emergency
- Yes, if it is a meeting of a state-level body and:
 - All members can hear one another
 - Public can hear discussion, votes and participate in testimony
 - One member of the body is at regular meeting location
 - Votes are by roll call
 - Notice must be posted on the body’s website at least 10 days before the meeting

July 2009 10

Meeting Notices

Requirements for providing notice of open meetings

July 2009 11

How must a public body give notice for a regular meeting?

- Keep a schedule of regular meetings on file at public body’s primary office
- Exception
 - Change in date, time, or place of regular meeting

July 2009 12

How must a public body give notice for a special meeting?

- Three days before a special meeting:
 - Post written notice on principal bulletin board or meeting room door
- Notice must include date, time, place, and meeting purpose

July 2009 13

What is required for a requested notice of a special meeting?

- Three days before the special meeting:
 - Mail or deliver notice to requestors, or publish notice in newspaper
- Notice must include date, time, place, and purpose
- Requests may expire

July 2009 14

Can a person limit a request for notice of special meetings?

- Yes – request may be limited
 - Public body must only send notice on specified subjects
 - Requests may expire

July 2009 15

What is an emergency meeting?

- An emergency meeting is:
 - A special meeting
 - Called because of circumstances that require immediate consideration
- Calling an emergency meeting is within the judgment of the public body

July 2009 16

How must a public body give notice for an emergency meeting?

- Notify public body members
- Good faith effort to notify media
 - Written request for notice
 - Provided a telephone number
- Posted or published notice not required
 - Notice must include meeting subject

July 2009 17

What are the notice requirements for closed meetings?

- Notice requirements for open meetings apply to closed meetings
 - Closed regular meeting – regular meeting schedule
 - Closed special meeting – posted notice
 - If requested, mailed or delivered notice
 - Closed emergency meeting – notice to news media if requested in writing

July 2009 18

Are there different notice requirements for state agencies?

- The notice requirements in OML apply only if:
 - A statute governing the meetings does not have a method for providing notice
- Publication in the State Register satisfies all notice requirements

July 2009 19

What must a state-level public body's telephone/electronic meeting notice include?

- Notice for state-level public body meetings conducted by telephone/electronically, must include:
 - The regular meeting location
 - That some members may participate by telephone/electronically
 - Remote monitoring requirements for the public
- In addition to regular, special, or emergency meeting notice requirements, the body must also post this notice on its website 10 days before the meeting

July 2009 20

Closed Meetings

Meetings not required to be open under the OML

July 2009 21

What must a public body do before closing a meeting?

- Before closing a meeting, a public body must make a statement on the record and –
 - Provide the specific grounds that permit a closed meeting
 - Describe the subject to be discussed
- All closed meetings, except those closed by attorney-client privilege, must be recorded

July 2009 22

What meetings *must* be closed?

- Meetings that discuss:
 - Alleged victims or reporters of:
 - criminal sexual conduct
 - domestic violence
 - maltreatment
 - Active criminal investigations
 - Law enforcement officer misconduct

July 2009 23

What other meetings *must* be closed?

- Meetings that discuss:
 - Certain not public data
 - Medical records
 - Preliminary consideration of allegations or charges of an employee

July 2009 24

What meetings *may* be closed?

- Meetings that discuss:
 - Labor negotiations
 - Employee performance evaluations
 - Certain property transactions
 - Asking price for property
 - Review of appraisals
 - Offers or counteroffers for property
 - Security matters

July 2009 25

What other meetings *may* be closed?

- Meetings where closure is:
 - Expressly authorized by statute
 - Permitted by the attorney-client privilege

July 2009 26

Penalties, Data Practices & Myths

OML penalties, relation to data practices & common myths

July 2009 27

Are there penalties for violating the OML?

- Intentional violation
 - Personal liability - \$300 fine
- Three intentional violations
 - Forfeit office
- Reasonable costs, disbursements, attorneys fees up to \$13,000
- No reversal of public body actions for OML violation

July 2009 28

What relationship does the OML have with data practices?

- Not public data can be discussed at open meetings
 - No liability
 - Necessary to conduct public business
- Data retain not public classification

July 2009 29

What are some common myths about the OML?

- Posted notice of regular meetings
- Must use Robert's Rules of Order
- The public can speak at open meetings
- Minutes and agendas are required

July 2009 30

For more information & questions

Information Policy Analysis Division

www.ipad.state.mn.us

1.800.657.3721 or 651.296.6733

info.ipad@state.mn.us