

1 **Nebraska Open Meetings Act**

CPLS CONFERENCE– OCTOBER 19, 2023
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2 **Disclaimer**

The presenter is not acting as any attendee's legal council and the information presented should not be construed as actual legal advice or the promise of such in the future. The goal of the presentation is to make the attendees aware that such legal requirements exist.

If actual legal advice is sought for specific reasons, they should contact their city attorney or other such legal professional.

3 **What is it?**

The Open Meetings Act is a set of state statutes to require public policy is done in a transparent and public manner.

Currently in Nebraska Revised State Statutes in Sections 84-1407 to 84-1414

Almost all governmental councils, boards, and other groups must comply with the Open Meetings Act – including governing and advisory library boards.

Note: During this presentation, the term "public body" will be used to cover all these various councils, boards, and other groups that must follow the Open Meeting Act.

4 **Advertising the Meeting (Section 84-1411)**

The public is given "reasonable" advance notice about the meeting.

In communities of population of 5,000 or less notice consists of:

- Placing a notice in a newspaper that covers the community OR
- Posting a physical notice in three different locations within the community

In communities of population larger than 5,000 people, a notice must be placed in a newspaper that covers the community.

Locations of where and when the notices of the meeting were placed should be included in meeting minutes.

5 **Advertising the Meeting (cont.)**

The notice of the meeting shall include

- Time and place of the meeting
- Agenda of the meeting (more on this later) or a statement of where the current up-to date agenda can be viewed in person and where that agenda is kept.
- The posted agenda can be changed up to 24 hours before the meeting.

6 **The Agenda**

The agenda must have enough detail for a citizen to understand the topics being covered in the meeting

Example:

- Agenda item being listed as "Getting Books" doesn't give any information to a non-library board person, but listed as "Grant proposal to build up financial literacy collection" does

Cities of the first class and larger shall place on their websites the agenda of the meeting no later than 24 hours before the start of the meeting. This agenda must continue to available for at least 6 months. (84-1413)

7 Emergency Meeting

A public body can hold an emergency meeting without reasonable public notice.

The reason for the meeting shall be stated in the minutes.

The only business allowed during this meeting shall pertain to the emergency matter.

Complete minutes the emergency meeting shall be made available to the public no later than the next regular business day.

8 Virtual Meetings

Virtual library board meetings can be held, but with these conditions:

The purpose of the meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting

No action is taken at the virtual meeting

Reasonable publicized notice is given, including link or dial-in number for access to the meeting

There is still a physical location where the public could attend the meeting, that location is listed in the notice, and at least one member of the public body is in attendance at that physical location.

9 Public's rights (84-1412)

The public has the right to attend, record, broadcast, make notes, and to make comments during a meeting.

The public body can create rules regarding the above to allow all attendees can participate.

Examples:

- Setting time limits on public comments so all who want to make comments will have the ability to do so.
- Restrict location of recording devices so they do not impede another attendee's ability to see, listen, or record for themselves.

10 Public's rights (cont.)

The public body can not:

- Require the public to identify themselves to simply attend the meeting
- Require the individual to be on the agenda prior to the meeting to make comment on something on the agenda
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The public body can:

- Require someone making a public comment to disclose name and address (unless that is being withheld to protect the commenter)
- Have some meetings without time for public comment

11 Public's rights (cont.)

A current copy of the Open Meetings Act must be posted in the same room as the meeting is being held and its location will be pointed out at the start of the meeting.

A recent court case clarified "posting" a copy of the Open Meetings Act means putting it up in some fashion, including attaching it to a bulletin board, hanging it by a chain or fastening it to a wall. A loose copy on a table in the room will not satisfy the law's requirement.

The purpose of this rule is that the law available for anybody in the room to be able to refer to it during the meeting.

12 **Minutes (84-1413)**

Minutes shall include the time and place of the meeting, members present and absent, and the substance of all matters discussed.

Any vote will be done by roll-call vote, with each member's vote recorded in the minutes (This can be waived when voting for officers of the group)

Minutes and all documentation received or disclosed will be available for public within 10 days of the meeting. (Communities under 5000 can get another 10 days if person in charge of minutes falls ill)

Cities of the first class and larger shall place on their websites the minutes of the meeting no later than 10 working days after the meeting. The minutes shall remain on the website for at least 6 months.

13 **Closed sessions (84-1410)**

Meetings can have a closed session for the following reasons:

- Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
- Discussion regarding deployment of security personnel or devices;
- Investigative proceedings regarding allegations of criminal misconduct;
- Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

Some other types have other eligible reasons

14 **Closed sessions (cont.)**

Both stating the reason for a closed session and the vote to go into closed session must be done in the public part of the meeting.

The only matter discussed in the closed meeting is the matter stated.

Any votes on the matter must happen after the closed session is finished and the public are invited back in.

15 **What about social events?**

There is a statement in the Open Meetings Act that allows more than a quorum of members of the public body to get together at functions.

"The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power." (84-1410(5))

16 **Consequences (84-1414)**

The Attorney General and the county attorney are the people who enforce the Open Meeting Act Any meeting held that is found to have violated the act could see any and all decisions made in that meeting voided

"Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense."

17 **Links for reference**

Text of Open Meeting Act (Link goes to first chapter)

<https://nebraskalegislature.gov/laws/statutes.php?statute=84-1407>

Full text of current State Statute:

https://nebraskalegislature.gov/laws/display_html.php?begin_section=84-1407&end_section=84-1414

Attorney General's notes about the Open Meeting Act:

<https://ago.nebraska.gov/open-meetings>

18 **Questions?**