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# WISCONSIN OPEN MEETINGS LAW

# The Open Meeting Law

- Found in section 19.81 through 19.98 of the Wisconsin Statutes
- Reproduced in section 3.71 Madison General Ordinances
- Supplemented Administrative Procedure Memorandum (APM) 3-13.



# Purpose of the Law

In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business, Sec. 19.81(1), Wis. Stats.

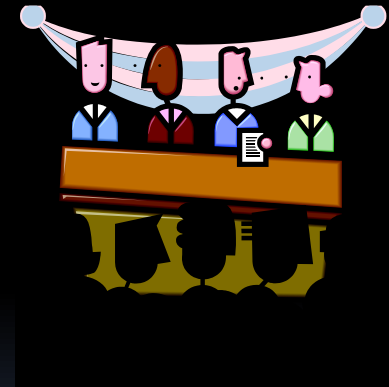


# General Requirements

- Meetings of state/local government bodies must be held in a publicly accessible location (including disabled public)
- Meetings must be preceded by notice (even for closed meetings)
- Meetings must be open (unless statutes specifically authorize closed session)

# Application to Governmental Bodies


- Applies to all governmental bodies, including boards, commissions, committees, councils, etc.
- All designated subunits of the above





# Collective Power

Even if the collective power is limited to receiving information, providing advice or making recommendations, that still constitutes collective power sufficient to trigger application of the law



# What Meetings Are Covered?



Statutory Definition of a Meeting- "the convening of members of a governmental body for the purpose of exercising the responsibility, authority, power or duties delegated to or vested in the body."

# What is it really?

- Must conduct governmental business. Discussion/debate, information gathering, public hearings, or for decision making

AND


- Sufficient number of members present that *can determine the parent body's course of action* on the subject under discussion





# CAUTION

Usually a quorum is needed before a meeting can be held. HOWEVER, the Open Meetings law applies in at least two situations where a quorum maynot be present:

- Negative Quorum
  - Walking Quorum
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# Negative Quorum



A gathering of less than a quorum can determine the parent body's course of action, such as when enough members are present to block passage of an action

# Walking Quorums/Meetings

A series of gatherings or contacts (phone calls, conference calls, emails, chat rooms) among members



# Social gatherings & Chance Meetings

Are Permissible -

- Meeting /encounter is not an attempt to circumvent public meetings law
- Business of the parent body does not get discussed nor acted upon
- If a quorum or more is present – the body will be presumed to have held a meeting and will incur the responsibility of proving that it did not meet to engage in governmental business

# Telephone Conference Calls

- Okay to hold a meeting by telephone if:
  - Meeting is noticed that way
  - Provide public facility with speakerphone that works well enough for public to hear/participate



# Tours & Site Visits

- Are meetings and must be properly noticed as such
- If the board/committee provides members with transportation it should consider doing so in less than quorum numbers to avoid presumption of a meeting while traveling
- Transportation for public?

# Attendance at Another Body's Meeting & Joint Meetings

- Constitutes a meeting if the members attend in order to exercise their responsibilities
- Must provide notice
  - Sometimes it is appropriate to provide in the notice that "a quorum of the XYZ committee may be present in attendance at the ABC Board meeting for the purpose of ..."

# Notice Requirements

- Each Comm./Board has a staff person appointed to ensure compliance
- Notice must provide:
  - Time
  - Date
  - Place
  - Subject Matter (stated sufficient enough to identify topic to average person)
- Special Requirements for certain bodies (staff will advise)



# Posting Notice

- APM 3-13 requires that Agenda's be posted as official notices of meetings
- Notices/Agendas are physically posted in numerous locations reasonably accessible to the public
- Electronically posted on City web page & City Channel



# Who must Be Notified

- Public (through posting)
- City's Official Newspaper
- News Media Outlets (those which have previously filed written request for notice)

Practice tip – meeting minutes or records should reflect that proper notice was given

# Timing




- 24 Hours notice (unless impossible or impractical)
- ABSOLUTELY NO LESS THAN TWO (2) HOURS NOTICE


# Closed Sessions

- Allowable for limited purposes:
  - Judicial/quasi-judicial deliberations (PFC, EOC)
  - Discipline & licensing (personnel comm., ALRC)
  - Compensation & evaluation
  - Crime prevention (PSRB, crime stoppers board)
  - Competitive or bargaining purposes (deliberations re: negotiations & actual negotiations)



# Closed Sessions: Purposes

- Personnel matters – only if considering financial, medical, social or personal histories or disciplinary data of specific persons or the preliminary consideration of personnel problems or the investigation of charges against specific persons
  - Conferring with legal counsel (for advice on strategy re: current or likely litigation)
- 



# Can A Body Go Into Closed Session Without Notice On The Agenda?

- Yes, if convened in open session with proper notice
- Closed Session could not have been contemplated at time agenda published (otherwise move closed session to next meeting agenda)
- Contact OCA for further info

# Mechanics of Closed Sessions

- Convening
  - Motion & second
  - Recorded vote (unless presiding officer notes unanimous vote in record)
  - Announcement (presiding officer must announce nature of business & statutory exception)



# Mechanics of Closed Sessions

- Attendance in Closed Session
  - Members of the Body
  - Necessary Staff
  - Other City Officers
  - Those persons whose presence is necessary to conduct the business





# Mechanics of Closed Sessions

- Records of closed session
  - Not required to keep minutes (some stat. exceptions exist)
  - Motions & roll call votes must be recorded (open to public inspection)
  - Once the underlying purpose of the closed session is past, the public may have access to all of those records



# Recording Meetings

- Meetings do not have to be visually or audibly recorded
- Must make a reasonable effort to accommodate any person desiring to record meeting
- Many are recorded and broadcast on Ch. 12 & city website



# Enforcement

- Prosecution
  - Attorney general, district attorney or an individual citizen may initiate prosecution
- Penalty
  - Forfeiture of \$25.00 to \$300 plus statutory costs (nearly double the total)
  - Liability is personal, city cannot reimburse individual
- Actions taken during illegal meeting may be voided