



Nebraska Open Meetings Act

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Nebraska Open Meetings Act

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NEBRASKA OPEN MEETINGS



Public Body Defined

- Neb. Rev. Stat. § 84-1409(1)(a)
- Governing bodies of all political subdivisions

Meeting Defined

- Neb. Rev. Stat. § 84-1409(2)
- "all regular, special or called meetings, formal or informal, ... for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action..."
- Must be a quorum of the board

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NEBRASKA OPEN MEETINGS



Exceptions

- Subcommittees
 - Ensure less than quorum
 - Subcommittee cannot:
 - Hold hearings
 - Make policy
 - Take formal action
- Chance meetings
- Meeting due to travel or attendance at a workshop/convention
- No intention of circumventing the Open Meetings Act
- No vote or other action taken

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NEBRASKA OPEN MEETINGS



▪ Why

- § 84-1408
- It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.
- Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

▪ Broadly Interpreted

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CLOSED SESSIONS



▪ Rights of the public (Neb. Rev. Stat. § 84-1412)

- Public has a right to attend and to speak, except for closed sessions
- Public may videotape, televise, broadcast, record
 - Political subdivision may:
 - Set policies regarding speaking and recording
- Political subdivision cannot require the public to sign-in or identify themselves at a public meeting, except if addressing the board.

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CLOSED SESSIONS



▪ Neb. Rev. Stat. § 84-1410

▪ Affirmative vote of a majority of voting members

▪ Clearly necessary for:

- the protection of the public interest OR
- the prevention of needless injury to the reputation of an individual AND the individual has not requested a public meeting

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CLOSED SESSIONS



- Neb. Rev. Stat. § 84-1410(1) -- closed sessions permitted:
- (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent.
- (b) Discussion regarding security personnel or devices.
- (c) Investigative proceedings regarding allegations of criminal misconduct.
- (d) Performance evaluation of a person when necessary to prevent needless injury to the reputation of the person AND if the person has not requested a public meeting.

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CLOSED SESSIONS



- **Board must clearly state the subject matter and the reason for the closed session in the motion.**
 - I move to go into closed session to discuss negotiations (subject matter) for the protection of the public's interest (reason for the closed session).
- **Motion passes, presiding officer must restate, on record, the limitation of the subject matter of the closed session, immediately prior to entering closed session.**

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CLOSED SESSIONS



- **Board must list in the minutes:**
 - Entire motion and how each member voted AND
 - Time when the closed session starts and ends
- **In closed session, board may NOT:**
 - Discuss issues not related to the listed reason for entering closed session
 - Take formal action or reach a collective decision
- **Board members must challenge continuation of the closed session if discussion is inappropriate.**

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ELECTRONIC COMMUNICATIONS



- Be careful your email does not violate Open Meetings Act
- General Rule: No quorum
- AG's opinion, permissible for there to be a quorum in the communication as long as communication does not circumvent the Open Meetings Act.
 - Does it elicit a response
 - Does it further communications between board members
- Instantaneous Messages
 - Text messages, chat rooms, Skype, etc.
 - If quorum, don't do it

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MEETING NOTICE AND AGENDA



▪ Neb. Rev. Stat. § 84-1411 – Must Provide Notice:

- Reasonable advance publicized notice
- Time and place of each meeting
- By a method designated by each public body
- Recorded in minutes

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MEETING NOTICE AND AGENDA



▪ Neb. Rev. Stat. § 84-1411 – Must Provide Notice

▪ Must contain

- Agenda of subjects known at the time of the publicized notice
OR
- Statement that the agenda will be kept continually current and "readily available for public inspection at the principal office of the public body during normal business hours."

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MEETING NOTICE AND AGENDA



▪ Neb. Rev. Stat. § 84-1411(1)

- Agenda must be descriptive to "give the public reasonable notice of the matters to be considered at the meeting."
- Do not alter the agenda "later than (a) **twenty-four hours before the scheduled commencement of the meeting....**"
- **Exception: Emergency items**

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THE BOARD MEETING AGENDA



THE CONSENT AGENDA ...

- groups several items together as one, to be approved with a single motion and vote
- includes items that are considered routine and non-controversial in nature, such as previous meeting minutes, claims, schedule changes, hire and reassignments, etc.

Altering the Published Agenda...

- NEB. REV. STAT. § 84-1411 .."the agenda shall not be altered later than twenty-four hours before the scheduled commencement of the meeting."

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PUBLIC COMMENT



NEB. REV. STAT. § 84-1412. Meetings of public body; rights of public; public body; powers and duties.

"(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies..."

Nebraska School District—Board of Education
Public Comment Request Card

Name: _____
District Resident ___ Yes ___ No
Address: _____
City/State/Zip Code: _____
Organization represented (if any): _____
Agenda item or topic to be addressed: _____
Signature/Date: _____

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PUBLIC COMMENT



What you need to know about Public Comment Protocol and Procedures:

- Policy ... note to self ... what is stated in policy?
- Presenting the protocol and procedures to be followed during public comment
- Conduct of board members during public comment
- Board's discussion of a matter presented during public comment
- Follow up with patrons who speak or ask questions during public comment

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VOTING



▪ Majority Vote

- Do you have a quorum...Yes
- Do you have enough votes...
 - Affirmative votes needed of members present

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VOTING



▪ Must record:

- How members voted (yea or nay)
- If they abstained
- If they were not present

▪ Voting must be done in open session

▪ Viva voice vote

- Roll Call – Announced (Neb. Rev. Stat. § 84-1413)
- Secret vote allowed for vote of leadership

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MINUTES



NEB. REV. STAT. § 84-1413. Meetings; minutes; roll call; secret ballot; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present, and the substance of all matters discussed.”

(5) Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier...”

Note: Statute does not specify the content or details in which the minutes are to be taken. The Board must record a summary of the discussion on all matters proposed, deliberated, or decided.

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OPEN MEETINGS LAW



Questions?

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