



Open Meeting Laws and DD Councils

Open Meeting Laws: Why do we have them?

Open meeting laws were created to allow the public to watch and participate in the deliberations of public bodies. These types of laws are also called Sunshine Law because they were intended to shine a light on decisions that public bodies were making.

Most States and Territories have their own open meeting law. It is important that you familiarize yourself with your state or territory rules.

What is a public body?

Generally, a public body is any governmental entity. This includes boards and commissions that have Governor-appointed members.

DD Councils are public bodies.

Who Oversees Open Meetings Laws?

Every state or territory with an Open Meeting Law has an agency that oversees the way public bodies follow the law. They are responsible for ensuring public bodies are not violating the law. In some states or territories, the Attorney General's Office might be that agency, but it could be the Secretary of State or the Ethics Commission in your state or territory.

It is important to know what agency oversees this law because they often create opinions from questions they are asked about the Open Meeting Law. Those opinions can be helpful to you if you do not know how to approach a certain issue related to public meetings.

The agency that oversees the open meeting law in your state or territory will often offer training on compliance with your law.

Tip: Attend a training on your state or territory Open Meeting Law. The law can cover many aspects of your meetings, it is important that you are fully aware of the law and comply with the law.

What do Open Meetings Laws Cover?

In general, the items below were found in many state and territory Open Meeting Laws.

An open meeting law tells you how public meetings must be conducted.

Public Availability: An Open Meeting Law gives information about public participation in public meetings. Some allow members of the public to be in the room and watch public meetings, but do not give them an avenue for participation in the meeting. Others require or provide guidance for public comments. An Open Meeting Law gives some guidance about how the public can participate in your meetings. That might mean a public comment period on the agenda, or it might mean having a way for the public to send in their comments prior to a meeting – usually through email, or it might allow for both.

Public Notice and Agendas: An Open Meeting Law also tells you how meetings need to be publicized and when agendas need to be posted (and sometimes where they need to be posted) before a public meeting. There is often a requirement about the amount of time that agendas must be posted prior to a meeting. Timeframes vary across states and territories. Agendas ensure that the public is aware of the topics to be discussed during the public meeting.

Records: An Open Meeting Law may tell you how soon minutes must be posted after a meeting. It may also tell you what is required to be in your meeting minutes (i.e. motions only or information on the discussion of voting items). It might require that you indicate the results of a roll call vote generally (for example, 10 yes, 9 no, no abstentions) or it could require that you list who voted and what their vote was.

Compliance: An Open Meeting Law often includes the penalties for violating the law. These penalties can include fines, legal challenges or invalidating decisions made during a meeting found to violate the Open Meeting Law.

What is a meeting?

In general, Open Meeting Laws include information about “what is a meeting” and what is not considered a meeting. Reviewing the information with your Council members can help them avoid unintentionally creating a quorum.

State and Territory Open Meeting Laws allow public bodies to conduct meetings differently.

Regarding **attendance**, some require 100% in-person participation for public meetings. Some allow public bodies to meet virtually by percentage (for example, 25% of the members can be virtual and everyone else must be in person). Some allow for a virtual option, but place conditions on the membership (for example, members that are virtual cannot vote and may not count towards quorum).

On **quorum**, for a meeting to take place, you must ensure that you have a quorum. Quorum is the minimum number of Council members required to be present for a meeting to be considered valid. In general, a quorum is typically a simple majority of members. However, some Open Meeting Laws provide guidance on quorum and some Councils have adopted specific quorum standards in their by-laws or policies.

On **committee or sub-committee meetings**, many Open Meeting Laws provide information about these types of meetings being subject to Open Meeting Law requirements. Often, they are public meetings and must meet quorum for a meeting to be valid.

Recommendations

Read your State or Territory Open Meeting Law and become familiar with it. Council leadership should ensure Council meetings follow the applicable Open Meetings Law. Also, know the agency which oversees your Open Meeting Law and find a contact within that agency to answer questions whenever new situations arise.