

TYPICAL OPEN MEETINGS QUESTIONS
(As of May 29, 2017)

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Meetings of state and local government bodies must be held in accordance with proper notices and, generally, must be open to members of the public. Failure to comply with any of these requirements can cause government action to be invalidated and can cause liability for a \$500 forfeiture, attorneys fees and court costs under Section 121.22 of the Ohio Revised Code (the “Open Meetings Act”). Provisions of city charters relating to open meetings may supersede provisions of the Open Meetings Act.

1. WHAT CONSTITUTES A MEETING?

A meeting is any prearranged discussion of public business by a public body, or by any committee or subcommittee of a public body, by a majority of its members, no matter what it is called. A meeting may have several sessions and although a majority of members did not attend any individual session, the sessions may be aggregated to constitute a meeting. Hearings of quasi-judicial bodies are not meetings. Similarly, attendance by the majority of the members of a public body at a judicial hearing is not a meeting.

2. WHAT IS A PUBLIC BODY?

Essentially, a public body is any board, commission, committee, council, agency or authority of the state or a political subdivision. The term “public body” also includes a court of jurisdiction of a sanitary district for certain purposes. The term “public body” includes advisory bodies and bodies which were not created by statute or ordinance.

3. ARE THERE ANY EXCEPTIONS?

Yes, Ohio’s Open Meetings Act does not apply to grand juries, audit conferences, certain meetings of child fatality review boards, the adult parole authority, organized crime investigations commissions, the “JobsOhio” board of directors, audit conferences with the State Auditor or the Department of Job and Family Services and, in some cases, certain state boards, commissions, authorities and councils. The Collective Bargaining Act permits closure of collective bargaining meetings between public employers and employee organizations.

4. CAN A MEMBER ATTEND A MEETING ELECTRONICALLY?

No. A member of a public body must be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting. Similarly, secret ballots are prohibited, and a meeting may not be considered “open” if participants prevent the audience from hearing the business being conducted. But an “email chain” between members of a majority of the public body, under certain circumstances, is a meeting that violates the Open Meetings Act.

5. WHAT ARE THE NOTICE REQUIREMENTS?

The public body must adopt rules establishing a reasonable method whereby any person may determine (1) the time and place of regularly scheduled meetings and (2) the time, place and purpose of all special meetings. In addition, except in emergencies, a special meeting may not be held unless 24-hour advance notice is given to all news media who have requested such notice. Even in an emergency, the public body must give immediate notice of the time, place and purpose of the meeting to news media who have requested such notice. Finally, the rules must provide that any person, upon request and payment of a fee, may obtain notification of all meetings at which a specific type of business is to be discussed.

6. AT A MEETING, CAN ANYTHING BE DISCUSSED IN PRIVATE?

Yes, once a properly-noticed meeting has been called to order, the public body may go into executive session to discuss (1) certain specified personnel matters, unless the affected employee requests a public hearing, (2) purchase or sale of property where premature disclosure would give an unfair competitive advantage, (3) pending or imminent litigation with its attorney, (4) collective bargaining, (5) matters required to be kept confidential by federal law or state statute, (6) details relative to security arrangements and emergency response protocols and (7) confidential information of an applicant, or negotiations with other political subdivisions, for economic development assistance. In addition, county hospitals operated under Chapter 339 of the Revised Code may consider trade secrets in executive session and veterans service commissions are required to consider certain matters relating to applications for financial assistance in executive session. To take any action, such as a vote, the public body must return from the executive session.

7. HOW DOES A PUBLIC BODY GO INTO EXECUTIVE SESSION?

For the first 6 reasons listed above, by a roll call vote of a majority of the quorum of the public body. The motion must state which of the first permitted reasons is the basis for the executive session. General terms such as “personnel matters” are not sufficient. For an “economic development” executive session, by a roll call vote of a unanimous quorum of the public body determining that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds. While no procedure is specified for ending an executive session, following its end, the open meeting must be resumed, even if only to formally end the open meeting.

8. MUST MINUTES OF THE MEETING BE PREPARED?

Yes, full and accurate minutes which contain sufficient facts and information to permit the public to understand and appreciate the rationale behind the public body’s decision must be promptly prepared, filed and maintained and shall be open to public inspection. Minutes relating to an executive session must only reflect that the proper procedures to enter an executive session were followed and state the subject matter of the executive session. The subject matter must be one of the 8 authorized by the Open Meetings Act. A legislative enactment takes effect before minutes are approved. A clerk can be obligated to correct minutes, but only to conform action actually taken by the public body. Minutes of meetings of veterans service commissions must meet special requirements set forth in the Open Meetings Act.