

Open and Public Meetings Act and Joint Rules Governing Special Committees

A Summary of Key Provisions | June 30, 2021

Open and Public Meetings Act

The Open and Public Meetings Act (OPMA) requires that members of a public body be “provided with annual training on the requirements of [the Open and Public Meetings Act]” (Section 52-4-104). This document is intended to facilitate compliance with that requirement and to help members of a public body understand OPMA. This summary is intended for a state legislative audience and does not attempt to explain or address requirements for other public bodies.

OPMA’s stated goal is to ensure that the state, its agencies, and its political subdivisions deliberate and take action openly (Section 52-4-102).

Definitions

(Section 52-4-103)

Meeting means a convening of a public body with a quorum present to discuss, receive public comment about, or act upon a matter over which the public body has jurisdiction or advisory power.

Public Body means an administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- is created by the Utah constitution, state statute, rule, ordinance, or resolution;
- expends, disburses, or is supported in whole or in part by tax revenue; and
- is vested with the authority to make decisions regarding the public’s business.

Public body does not include a political party, political group, or political caucus, or a conference committee, rules committee, or sifting committee of the Legislature.

Public Notice

(Section 52-4-202)

A public body is required to provide public notice of a meeting at least 24 hours before the meeting. The public notice is required to:

- specify the date, time, and place of the meeting;
- include an agenda that specifies the topics the public body will consider;
- be posted on the Utah Public Notice Website and at the location of the meeting, unless the meeting is being held without an anchor location; and
- be provided to a newspaper or local media correspondent.

2021 Amendments to OPMA

- [2021 S.B. 72](#) prohibits a vote in a closed meeting except to end the closed portion of the meeting and provides that a motion to end the closed portion of a meeting may be approved by a majority vote.
- [2021 S.B. 125](#) requires a public body convening an electronic meeting to provide facilities at an anchor location for the public to attend the meeting unless there are health or safety concerns.

A public body may discuss an item raised by the public that is not listed on the agenda but may not take final action on the item at the meeting.

Minutes and Recordings

(Section 52-4-203)

- A public body is required to keep written minutes and a recording of all meetings unless the meeting is a site visit or traveling tour where no vote or action is taken.
- A recording of the open portions of the meeting must be posted on the Utah Public Notice Website within three business days after the public meeting.
- Draft minutes are required to be made available to the public within 30 days after the meeting.
- The approved minutes and any public materials distributed at the meeting must, within three business days after their approval, be:
 - posted on the Utah Public Notice Website; and
 - made available at the public body’s office.

Closed Meetings

(Sections 52-4-204 and 52-4-205)

A public body may hold a closed meeting only for certain purposes, including to discuss:

- a person’s character, competence, or health;

- pending or imminent litigation;
- certain matters regarding acquisition or sale of real property, including water rights or shares;
- the deployment of security personnel, devices, or systems;
- an investigation of alleged criminal conduct;
- the receipt or review of an ethics complaint, if the public body is the Independent Legislative Ethics Commission;
- certain matters under the jurisdiction of a legislative ethics committee; and
- certain deliberations and decision making involved in the procurement process.

A public body may close a meeting only by a two-thirds vote with a quorum present, except in certain circumstances.

A public body that closes a meeting is required to announce and record in the minutes the reasons for closing the meeting.

A public body may not close a meeting to discuss filling a midterm vacancy or temporary absence for an elected position, or to discuss a person whose name was submitted to fill a midterm vacancy or temporary absence for an elected position.

An ordinance, resolution, rule, regulation, contract, or appointment may not be approved during the closed portion of a meeting.

A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting.

Electronic Meetings

(Sections [52-4-207](#) and [JR1-4-402](#), [JR1-4-403](#), [JR7-1-407](#))

A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern electronic meetings. The Legislature's rule governing electronic legislative meetings states that a meeting may be held by electronic means during an emergency. Electronic meetings shall comply with OPMA, including posting written notice of the meeting at the anchor location, unless the meeting is being held without an anchor location.

When calculating a quorum for each vote during an electronic meeting a member is included if that member is:

- present in person at the anchor location; or
- participating and able to communicate electronically.

A public body may conduct an electronic meeting without an anchor location if the chair of the public body:

- makes a determination that conducting the meeting with an anchor location presents a substantial risk to the health or safety of those who may be present at the anchor location;
- states the facts upon which the determination was made; and
- includes in the public notice for the meeting the determination and information on how the public may view or make comment at the meeting.

If an electronic meeting is held without an anchor location, a public body shall provide means by which the public can view and hear the open portions of the meeting and provide comments electronically.

In a non-emergency situation, a committee member may remotely participate in a public meeting if:

- the member will be more than 50 miles away from the meeting location;
- at least three days before the meeting, the member requests permission of the chair to participate from a remote location; and
- the chair obtains permission from the speaker of the House of Representatives and president of the Senate to conduct an electronic meeting.

Penalties

(Sections [52-4-302](#) and [52-4-305](#))

Open Meetings - Any final action taken in a meeting that is in violation of certain open-meeting provisions of OPMA is voidable by a court.

Closed Meetings - It is a class B misdemeanor to knowingly or intentionally violate the closed meeting provisions of OPMA.

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Joint Rules Governing Special Committees

Legislative rules governing legislative committees – which includes interim and special committees – are found in [Joint Rule Title 7, Chapter 1](#).

Special Committees

([JR7-1-101\(25\)](#), [JR7-1-102](#))

A special committee is a committee, commission, or task force created by legislation and staffed by the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst. This does not include interim committees, standing committees created in rule, or Senate confirmation committees created in rule.

Special committees are subject to interim committee rules and function largely like interim committees. If anything in rule conflicts with the special committee's governing statutes, the governing statutes take precedent.

Quorum Requirements

([Utah Code 63C-22-201](#), [JR7-1-203](#))

The Digital Wellness, Citizenship, and Safe Technology Commission's governing statutes state that a quorum is a simple majority. For other committees, quorum requirements depend on the composition of the committee or the committees' governing statutes.

Committee Order of Business

([JR7-1-204](#))

Unless a chair or a committee, by majority vote, determines otherwise, the order of business for a legislative committee meeting is:

- call to order;
- approval of minutes of the immediately preceding meeting;
- brief description of each item on the agenda;
- announcement of any time restrictions;
- consideration of legislative committee business for the meeting; and
- adjournment.

Making a Motion and Parliamentary Procedures

Making a Motion

A member of committee member may make a motion unless the motion is prohibited. ([JR7-1-307 through JR7-1-311](#))

- Committee member makes the motion. (“I move that ...”)
- Chair accepts by restating the motion.
- Chair allows committee members to ask one or more questions about the motion and to debate the motion.
- Maker of the motion provides summation.
- Chair places the motion for a vote and may call for a roll call vote if necessary.
- Chair announces the vote on the motion.

Parliamentary Procedures

Parliamentary procedures for legislative committees are detailed in rule. ([Joint Rule Title 7, Chapter 1, Part 5](#)) They include:

- An individual may only speak to a legislative committee when recognized by the chair.
- Chairs must recognize members of the committee who request to speak, and the committee members' remarks must be germane.
- Members of a committee must vote on a motion when present.
- Privileged motions are nondebatable and take precedence over a nonprivileged motion. They include, in the following order, motions to: adjourn, recess, and end debate.