

Board Member Training – 2017

for
*Special Service Districts &
Local Districts*



Utah Association of Special Districts

1

Outline

- Open Meetings
 - Statutory Requirements
 - Agendas
 - Minutes



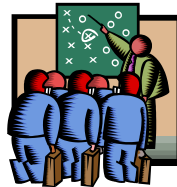
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2

Training Requirements

(Utah Code 52-4-104)

- Open Meetings
 - The presiding officer of the public body ensure that the members of the public body are provided with annual training on the requirements of the Open and Public Meetings Act



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11

Training Requirements

(Utah Code 52-4-104)

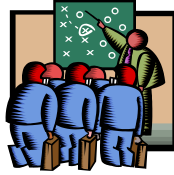
■ General Training

(Utah Code 17B-1-312)

- Within one year of appointment or election complete State Auditors Office/UASD training

■ GRAMA

- Records officers to be trained
 - Annual certification required



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22

Open Meetings

*Let the people know the facts
and the country will be safe.*

Abraham Lincoln

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27

Open Meetings Law

(Utah Code 52-4-104)

■ Open Meetings - Training

- The presiding officer of the public body ensure that the members of the public body are provided with annual training on the requirements of the Open and Public Meetings Act



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28

Open Meetings Law (Utah Code 52-4)

■ Open meeting – defined

- With a quorum present, an Open Meeting Includes:

- Workshops
- Executive Sessions

- Does not include:

- Chance Meetings
- Social Meetings



Open Meetings Law (Utah Code 52-4)

■ Electronic Meetings

- Statute requires that a policy for electronic meetings be adopted if electronic meetings are to be held

- Statute provides recommendations as to the areas to be considered



Open Meetings Law (Utah Code 52-4-209)

■ Electronic Communications in Public Meetings

- An "Electronic Message" includes:

- Electronic mail, instant messaging, electronic chat, text messaging, or other means of electronic messaging.

- A member of a public body may transmit an electronic message to other members of the public body when the public body is not convened in an open meeting.



Open Meetings Law (Utah Code 52-4-209)

■ *Electronic Communications in Public Meetings*

- *"Electronic Messages" versus GRAMA*



Meeting Agendas



Open Meeting Agenda (52-4-202(6))

Meeting Agenda must include:

- *Reasonable specificity.*
- *Each topic shall be listed under an agenda item.*
- *May only discuss a topic not listed on the agenda, if it is raised by a member of the public. (52-4-202(6)(b))*
- *May not take final action on any topic or item that is not on the agenda.*



Meeting Notice Requirements



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4

Annual Meeting Notice Requirements

(52-4-202)

- Regular meetings that are scheduled in advance over the course of a year shall...
 - Provide public notice of annual meeting schedule at least once each year
 - Specify the date, time and place of each scheduled meeting



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54

Annual Meeting Notice Requirements

(52-4-202(3))

- Annual Meeting Notice is satisfied by:
 - Posting written notice at the principal office of the public body. (If no such office exists, post at the building where the meeting is to be held.)
 - Post on the Utah Public Notice Website.
 - Provide notice to a local newspaper of general circulation within the area, or a local media correspondent.



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Regular Meeting Notice Requirements

(52-4-202)

- *Regular meeting agendas*
 - *Provide 24-hours public notice*
- *If not a regular meeting, provide 24-hours public notice*



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26

Regular Meeting Notice Requirements

(52-4-202)

- *Utah Public Notice Website*
 - *To be in compliance with the Open Meetings Law, all government entities must post meeting agendas on the Utah Public Notice Website*



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Exception re: Notice Requirements

(52-4-202)

- *Districts with budget less than \$250,000 may:*
 - *Publish notice in a newspaper*
 - *Provide notice by direct mail regarding a budget hearing*
 - *If by direct mail, notice must also post at 3 public places within the district (2014 session SB 51)*



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27

Regular Meeting Notice Requirements

(52-4-202)

- **Utah Public Notice Website**
<http://pnn.utah.gov>

- **Contact Information**

Utah Public Meeting Notice
Website Administrator

Division of Archives and Records
Services

801-531-3848



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29

Notice Requirements – Public Hearing vs. Public Meeting

Requirement	Regular Meeting	Public Hearing
Media	<p><u>Must</u> notify at least one newspaper of general circulation within the district's boundaries, or a local media correspondent.</p> <p><u>Must</u> post on the Utah Public Notice Website.</p> <p><u>May</u> provide notice to the media by auto-email notification.</p>	<p><u>Must</u> publish notice in at least one issue of a <u>newspaper of general circulation</u> in which the district is located.</p> <p><i>Bona Fide subscribers of 200+.</i></p> <p><i>Published for 18+ Mos</i></p> <p><i>Eligible for mailing 12+.</i></p> <p><i>At least 12 annual issues</i></p> <p><i>Local or general interest</i></p> <p><i>No compensation to publish</i></p>

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30

Notice Requirements – Public Hearing vs. Public Meeting

Requirement	Regular Meeting	Public Hearing
Posting	<p><u>Post</u> written notice at the principal office of the public body, or if no such office exists, at the building where the meeting is to be held.</p> <p><u>Must</u> post on Utah Public Notice Website</p>	<p>If a newspaper of general circulation is not available, then <u>post</u> written notice in three public places within the district.</p>

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31

Notice Requirements – Public Hearing vs. Public Meeting

Requirement	Regular Meeting	Public Hearing
Number of Days	At least 24 hours before meeting	At least seven days prior to the hearing. For a <u>tax increase</u> , notice must be published at least once each week for the two weeks preceding the adoption of the final budget. (59-2-919)

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62

Notice Requirements – Public Hearing vs. Public Meeting

Requirement	Regular Meeting	Public Hearing
Meeting Time	Not Specified	For a <u>tax increase or fee adoption or increase</u> , the public hearing "...shall be held in the evening beginning no earlier than 6:00 pm." (59-2-919(8)(e) & 17B-1-643(1)(b))

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63

Emergency Meetings

(52-4-202(5))

May be held if the following criteria are met:

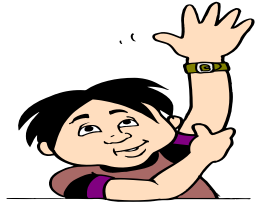
- Unforeseen circumstances
- Give best practicable notice of:
 - Date, time and place
 - Items to be considered
- Attempt to notify all board members
- Majority approve of the meeting
- Final action may be taken...



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64

Questions



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26

Closed Meetings (52-4-205)

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31

Closed Meetings (52-4-205)

- *A Closed Meeting is closed to the public and to the press.*
- *A Closed Meeting may be convened only for specific purposes as defined in statute.*

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Closed Meetings - Purposes (52-4-205)

- The character, competence or health of an individual
- Deployment of security personnel, devices or systems
- Collective bargaining issues



Closed Meetings - Purposes (Continued)

- Pending or reasonably imminent litigation.
- Investigative proceedings regarding allegations of criminal misconduct.



Closed Meetings - Purposes (Continued)

- Purchase, exchange, lease, or sale of real property, including any form of a water right or water shares, if: ...
 - ...such discussion prevents the district from completing a transaction on the best possible terms.



Closed Meetings - Purposes (Continued)

- Information that is required to be maintained as Private or Protected by the Procurement Statute, including trade secrets.
 - at the time of the procurement process
 - ...unless otherwise required to permanently be maintained as protected.



Closed Meetings - Minutes

- ...May not close a meeting to:
 - Interview candidates applying to fill an elected position
 - discuss filling a mid-term vacancy
 - discuss filling a temporary absence
(Utah Code 52-4-205(3))



Closing a Meeting - Procedures



Closing a Meeting - Procedures

■ How to enter a Closed Meeting

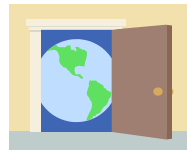
- May enter only from a properly noticed open meeting.
- Motion to enter a closed meeting.
- Two-thirds vote required of board members present at an open meeting.
- No board action may be taken in a closed meeting.



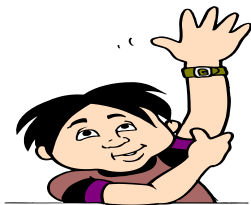
Closing a Meeting - Procedures

Publicly announce and record the motion to convene a Closed Meeting

- Clearly state the reason for closing the meeting
- Record the location of closed meeting
- Record the vote of each board member



Questions



Board-Meeting Minutes

Closed Meeting Minutes

Versus

Open Meeting Minutes



Closed Meetings - Minutes

- No recorded minutes are required if the meeting is closed to discuss:
 - The character, competence or health of an individual, or
 - The deployment of security personnel, devices, or systems,
- In lieu, requirements are:
 - Sworn written statement

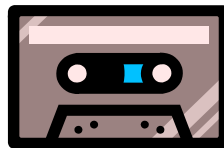
Utah Code 52-4-206



Closed Meeting - Minutes

All other closed meetings require that:

- The board must record the closed portion of the meeting: and
- Entity may keep detailed written minutes.
(Utah Code 52-4-206(1))



Content of Closed Meeting Minutes

- Closed meeting minutes shall include:

- Date, time and place of the meeting
- Names of board members present and absent
- Names of all others present
(Utah Code 52-4-206(3))



Closed Meeting Minutes continued...

- Closed meeting minutes are protected records.
(Utah Code 52-4-206(5))

- Retention of closed-meeting recordings according to Archives Records Retention Schedule.



Closed Meetings

Criminal Penalty

- Class B misdemeanor for any member of a public body who knowingly or intentionally violates, or who knowingly or intentionally abets, or advises a violation of any of the closed meeting provisions. (UCA 52-4)

Open Meeting Minutes



Open Meeting Minutes (52-4-203(7))

Written minutes and an audio recording are **required**, except for:

- ... a site visit or traveling tour where no vote or action is taken.
- In that case, either written or audio minutes are allowed.



Open Meeting Minutes continued...

- Open meeting recordings (audio or video) are public records.
- Open meeting written minutes are public records.



Open Meeting Minutes continued...

- *An audio or video recording of an Open Meeting must be converted to written minutes.*



Open Meeting Minutes continued...

- *Electronic recordings of an open meeting shall be available to the public for listening within 3 business days after the end of the open meeting.*



Open Meeting Minutes continued...

■ *Pending Minutes*

- *Are written minutes of an open meeting*
- *... Prepared in draft form and are subject to change before approval*
- *Shall be available within a reasonable time*



Open Meeting Minutes continued...

■ Pending Minutes

- ...made public before approval shall be clearly labeled as "unapproved", etc.
- Boards are to establish procedures for approval of written minutes of each public meeting.



Open Meeting Minutes continued...

■ Approved Open Meeting Written Minutes:

- Are the official record of action taken.
- Permanent Records
- Must be properly labeled



Open Meeting Minutes continued...

■ Open Meeting Recordings must be:

- Retained for 24 months after adoption of the written minutes.



Content of Open Meeting Minutes

Open meeting minutes shall include:

- Date, time and place of the meeting;
- Names of board members present and absent;
- Substance of all matters proposed, discussed, and decided;



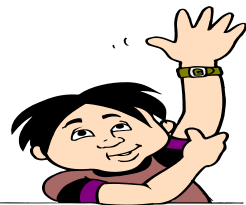
Content of Open Meeting Minutes

Open meeting minutes shall include:

- Votes taken by individual members;
- Names of all citizens who appeared and the substance of their testimony;
- Any other information that any member requests to be entered in the minutes.



Questions



Utah Association of Special Districts

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95