

OHIO'S OPEN MEETING ACT - COMMON QUESTIONS

What are a public body's responsibilities under the open meetings act?

- **Openness.** All public bodies must take all official actions and hold all deliberations on official business in meetings that are open to the public.
- **Notice.** Depending upon the type of meeting, the public body must meet specific requirements for the timing and type of notice it provides to the public.

What is a "regular meeting?"

A regular meeting is a meeting that is held at prescheduled intervals, such as "the 1st Tuesday of every month, at 7:30 p.m. in Ag Center Conference Room." The notice requirement for a regular meeting is that public bodies must establish by rule (policy) a reasonable method allowing the public to determine the time and place of regular meetings. Any meeting other than a regular meeting is a special or emergency meeting.

What are the notification requirements of "special meetings?"

The notice requirement for a special meeting is that public bodies must establish by rule (policy) a reasonable method that allows the public to determine the time, place and purpose of a special meeting. The **rule must require at least 24 hours advance notification** to all media outlets that have requested such notification. Although the notice for a special meeting must state the purpose for the meeting, it may be for "general purposes." And if a public body wants to adjourn into executive session during a special meeting, the topic of the executive session should directly relate to some matter expressly included in the notice.

What is considered an "emergency meeting?"

An emergency meeting is a special meeting that is convened because a situation requires immediate official action. For this type of meeting, the **notice requirement is immediate**. The members of the public body must immediately notify all news media outlets that have requested such notice.

Can requests be made for notification of a meeting when certain types of business to be discussed?

Yes. A public body is to establish a method by which a person may sign up to receive notice of meetings when a particular type of business is going to be discussed. The method may require payment of a reasonable fee, and failure to pay that fee means that a person cannot complain about not receiving the requested notice. If the topic of a special or emergency meeting relates to the particular type of business that a person asked to be notified about, the notice should go to that person as well as the media.

For what reasons can executive session be held?

There are only eight valid reasons for a SWCD Board to adjourn into executive session, and they are listed in the open meetings statute.

1. **Personnel.** Consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or [to consider] investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the employee, official, licenses, or regulated individual requests a public hearing.
2. **Property.** Consider the purchase of property (real property and personal property, whether it is tangible or intangible). A public body may also adjourn into executive session to consider the sale of property by competitive bid (real or personal property) if disclosure of the information would result in a competitive advantage to the other side.
3. **Court action.** Discuss with the public body's designated legal council to discuss pending or imminent court action. A public body may not use this exception to adjourn into executive session for discussions with a board member who also happens to be an attorney -- the attorney should be

the duly appointed counsel for the District. **Note:** *by statute the County Prosecutor or their designee is the Districts Legal Council.*

4. **Collective Bargaining.** A public body may adjourn into executive session to prepare for, conduct, or review collective bargaining strategy. **Note:** *There are no current District employees with collective bargaining rights.*
5. **Confidential Matters.** A public body may adjourn into executive session to discuss matters required to be kept confidential by federal law, federal rules, or state statutes. **Note:** Cooperator records pertaining to their involvement in USDA programs would fall under federal jurisdiction and are not covered under the Ohio Open Records Act.
6. **Security Arrangements.** A public body may adjourn into executive session to discuss specialized details of security arrangements where disclosure might reveal information that could be used to commit, or avoid prosecution for, a violation of the law.
7. **Hospital Trade Secrets.** A public body may adjourn into executive session to discuss trade secrets of a county hospital, a joint township hospital, or a municipal hospital.
8. **A Veterans Service Commission** must hold an executive session when considering an applicant's request for financial assistance, unless the applicant requests a public hearing.

Are there restrictions on discussions held in executive session?

There are indeed restrictions on the discussions held in executive session. First, there can be no decision-making (actual voting) in the executive session. In fact, perhaps the only vote that may be taken during executive session is the vote on a motion to adjourn or recess the executive session. An executive session must always begin and end in open session.

What is the proper procedure for adjourning into executive session?

1. **Motion.** First, there must be a motion that states the purpose for the executive session, and the motion must be specific as to the matters to be discussed. For instance, if the purpose of the executive session is to discuss one of the personnel-related matters listed in the personnel exception, the motion must specify one or more of the listed purposes it is going to discuss, i.e., "to discuss the dismissal of a public employee." It is not sufficient to move for an executive session to discuss "personnel." But the motion does not need to specify the person who is to be discussed by name.
2. **Second.** After the motion, there must be a second on the motion.
3. **Roll Call Vote.** A vote to adjourn into executive session must be made by roll call vote by a majority of a quorum of the public body. The vote may not be by acclamation or by show of hands. And the vote must be recorded in the minutes.

What are the rights and remedies under the open meetings act? What are the ramifications of violating the open meetings act?

- **A person is guaranteed the right to attend** a public meeting, **not the right to be heard** at that meeting. And a disruptive person waives the right to remain and observe the meeting.
- **Audio and video recording may not be prohibited**, but the public body may establish reasonable rules regulating the use of such equipment, such as requiring equipment to be silent, unobtrusive, self-contained, and self-powered to limit interference with the ability of others to hear, see, and participate.

Additional Information

For further information on the Ohio Opens Meetings Rules go to the Ohio Attorney General's Website for an Adobe PDF copy of the current Ohio Sunshine Laws - *The Yellow Book: an Open Government Resource Manual* at <http://www.ohioattorneygeneral.gov/YellowBook>