

Convening in Closed Session

A meeting may be convened in closed session only when the board or subunit is first properly convened in open session, and only to consider matters under one or more of the exemptions in s.19.85(1). A motion to close shall be carried by majority vote. The vote of each member on the motion must be recorded in the minutes.

Before the motion is adopted, the presiding officer must announce the nature of the business to be considered in closed session and the specific statutory exemption or exemptions by which the closed session is claimed to be authorized. The announcement shall become part of the record of the meeting.

No business may be taken up at any closed session except that which relates to matters contained in the presiding officer's announcement of the closed session. *Section 19.85(1).*

Ballots, Voting and Records

Except for the election of officers of the governmental body, no secret ballot may be used to determine any election or decision. Any member of the governmental body may require that a vote be taken at any meeting in such a manner that each member's vote is ascertained and recorded, except for the election of board officers.

Section 19.88(1) and (2).

The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in the public records law. *Section 19.88(3).*

Exclusion of Members

No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of the governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body. If the member is not a member of the subunit, attendance at the subunit's meeting may trigger additional notice requirements. *Section 19.89.*

Recording, Filming and Photographing

Whenever a board or a subunit holds a meeting in open session, the board or subunit must make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. However, this does not permit recording, filming or photographing a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants. *Section 19.90.*

Penalty and Enforcement

A member of a governmental body may be subject to a forfeiture for violation of the open meetings law. No member of a governmental body is liable under the open meetings law on account of his or her attendance at a meeting held in violation of the open meetings law if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation. *Section 19.96.*

Any action taken at a meeting of a governmental body held in violation of the open meetings law is voidable by a court. *Section 19.97(3).*

Attorney General's Interpretation

Any person may request advice from the Attorney General as to the applicability of the open meetings law under any circumstances. The Wisconsin Department of Justice publishes *Wisconsin Open Meetings Law: A Compliance Guide*, available at www.doj.state.wi.us.

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Open Meetings Law

A Summary for Wisconsin School Boards

Supporting, Promoting and Advancing Public Education

The open meetings law is found in sections 19.81 to 19.98 of the Wisconsin Statutes. There are other statutory requirements for calling, noticing and conducting regular and special school board meetings that are not discussed in this summary (see ss. 120.11 and 120.43, for example). Also, for the open meetings requirements related to collective bargaining, read ss. 19.82(1), 19.85(3), 19.86 and 111.70(4)(cm)2.

Coverage

The open meetings law covers “meetings” of “governmental bodies.” A school board is a “governmental body” covered by the open meetings law. The law also is applicable to formally constituted subunits of the board, such as board-created committees. However, any board or committee formed for or meeting for the purpose of collective bargaining is not a “governmental body” covered by the open meetings law. *Section 19.82(1)*.

“Meeting” means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power and duties delegated to or vested in the body. Whenever the members of a governmental body meet to engage in governmental business, be it discussion, decision or information gathering, the open meetings law applies if the number of members present is sufficient to determine the body’s course of action regarding a proposal discussed at the meeting. If one-half or more of the members of a governmental body are present, the law “rebuttably presumes” that it is a “meeting” covered by the open meetings law. The term “meeting” does not include any social or chance gathering or conference which is not intended to avoid the law. *Section 19.82(2)*.

Convening in Open Session

Every meeting of a governmental body, including contemplated closed sessions, must be preceded by public notice and initially convened in open session. All discussion and action, formal or informal, must be initiated, deliberated and acted upon in open session, except where the meeting has been properly closed for a purpose permitted by s.19.85. During a period of public comment, a governmental body may discuss any matter raised by the public. *Section 19.83*.

“Open session” means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times.

Public Notice

Content

Public notice must set forth the time, date, place and subject matter of the meeting, including that intended for any contemplated closed session, in such form as is reasonably likely to apprise members of the public and news media thereof. Notice of a contemplated closed session should refer to the specific statutory exemption. The public notice may provide for a period of public comment. *Section 19.84(2)*.

Timing

Public notice of every meeting must be given at least 24 hours prior to the meeting’s commencement. If for good cause this is impossible or impractical, shorter notice may be given, but never less than two hours in advance. *Section 19.84(3)*.

Separate notice must be given for each meeting, at a time and date reasonably close to the time and date of the meeting. *Section 19.84(4)*.

Intent to reconvene in open session within 12 hours after a closed session must be noticed at the same time and in the same manner as notice of the meeting convened prior to closed session. *Section 19.85(2)*.

Whom to Notify

In addition to any notice required by other statutes, notice of meetings must be given (1) to the public, (2) to news media who have filed written requests, and (3) to the official newspaper, or if none, to a news medium likely to give notice in the area. *Section 19.84(1)*.

Subunit Exception

Formal subunits of school boards may meet without public notice during or immediately after a lawful meeting of the school board to discuss or act on a matter which was the subject of the board meeting. The presiding officer of the board meeting must publicly announce the time, place and subject matter of the meeting of the subunit in advance at the board’s meeting. *Section 19.84(6)*.

Closed Sessions

A meeting may be convened in closed session under one or more of the exemptions provided in s. 19.85(1), including the following exemptions that have been used by school boards:

(a) Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.

(b) Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, and taking of formal action on any such matter; provided that the public employee or person licensed is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary hearing or meeting where the employee or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

(d) Considering strategy for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

(h) Consideration of requests for confidential written advice from the elections commission under s. 5.05(6a) or the ethics commission under s. 19.46(2), or from any county or municipal ethics board under s. 19.59(5).