

## ARTICLE II: OKLAHOMA OPEN MEETING ACT

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### **Section 522. Oklahoma Open Meeting Act.**

This act shall be known as the Oklahoma Open Meeting Act. **(25-301)**

### **Section 523. Public Policy.**

It is the public policy of the State of Oklahoma to encourage and facilitate an informed citizenry's understanding of the governmental processes and governmental problems. **(25-302)**

### **Section 524. Meetings of Public Bodies.**

All meetings of public bodies, as defined hereinafter, shall be held at specified times and places which are convenient to the public and shall be open to the public, except as hereinafter specifically provided. All meetings of such public bodies shall be preceded by advance public notice specifying the time and place of each such meeting to be convened as well as the subject matter or matters to be considered at such meeting, as hereinafter provided. **(25-303)**

Open Meeting Act does not provide for or guarantee citizens the right to participate in the governmental decisions being made at an open meeting nor does it provide citizens a right to express their views on the issues being considered at the meeting. If a public body establishes an open forum for citizens to speak, it may establish reasonable time, place, and manner restrictions. *February 24, 1999 (AG Op. No. 98-45)*

Committees which have decision-making power within the school board are subject to Open Meeting Act. However, committees whose purpose is only fact-finding, advisory, informational, or recommendatory are not subject to Open Meeting Act. *Andrews v. ISD No. 29, 737 P.2d 929 (Okla. 1987)*

Subordinate entity exercising decision making authority delegated to it by Board is subject to Open Meeting Act. *June 12, 1984 (AG Op. No. 84-53)*

When public body meets with group of experts to gain insight into particular matter, meeting must be open to public and satisfy other requirements Open Meeting Act. *November 9, 1982 (AG Op. No. 82-212)*

Cameras and tape recorders may not be barred from meetings of public bodies. *April 16, 1981 (AG Op. No. 81-109)*

An unincorporated association or other entity to which is lawfully delegated decision-making authority by a school district is subject to Open Meeting Act. *August 6, 1980 (AG Op. No. 80-78)*

Meeting of negotiations teams not subject to Oklahoma Open Meeting Act. *December 11, 1978 (AG Op. No. 78-208)*

## **Section 525. Definitions.**

As used in the Oklahoma Open Meeting Act:

1. “Public body” means the governing bodies of all municipalities located within this state, boards of county commissioners of the counties in this state, boards of public and higher education in this state and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts or any entity created by a public trust, task forces or study groups in this state supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcommittees of any public body. Public body shall not include the state judiciary, the Council on Judicial Complaints when conducting, discussing, or deliberating any matter relating to a complaint received or filed with the Council, the Legislature, or administrative staffs of public bodies, including, but not limited to, faculty meetings and athletic staff meetings of institutions of higher education when those staffs are not meeting with the public body, or entry-year assistance committees. Furthermore, public body shall not include the multidisciplinary team provided for in subsection C of Section 1-502.2 of Title 63 of the Oklahoma Statutes or any school board meeting for the sole purpose of considering recommendations of a multidisciplinary team and deciding the placement of any child who is the subject of the recommendations. Furthermore, public body shall not include meetings conducted by stewards designated by the Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title 3A of the Oklahoma Statutes when the stewards are officiating at races or otherwise enforcing rules of the Commission;

2. “Meeting” means the conduct of business of a public body by a majority of its members being personally together or, as authorized by Section 307.1 of this title, together pursuant to a videoconference. Meeting shall not include informal gatherings of a majority of the members of the public body when no business of the public body is discussed;

3. “Regularly scheduled meeting” means a meeting at which the regular business of the public body is conducted;

4. “Special meeting” means any meeting of a public body other than a regularly scheduled meeting or emergency meeting;

5. “Emergency meeting” means any meeting called for the purpose of dealing with an emergency. For purposes of the Oklahoma Open Meeting Act, an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss;

6. “Continued or reconvened meeting” means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of the Oklahoma Open Meeting Act, only matters on the agenda of the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting; and

7. "Videoconference" means a conference among members of a public body remote from one another who are linked by interactive telecommunication devices permitting both visual and auditory communication between and among members of the public body and members of the public. During any videoconference both the visual and auditory communications functions of the device shall be utilized. Whenever the term "teleconference" appears in any law in relation to a meeting of a public body, it shall be deemed to mean a videoconference as defined in this paragraph. **(25-304)**

**Note:** Amended by SB 69, Sec. 1 of the 2007 Reg. Sess. Effective November 1, 2007.

A private organization which provides goods or services to the public on behalf of a governmental agency and receives payment from public funds as a reimbursement for goods or services provided is not supported by public funds and thus not a public body. *August 21, 2002 (AG Op. No. 02-37).*

## **Section 526. Votes.**

In all meetings of public bodies, the vote of each member must be publicly cast and recorded. **(25-305)**

When public body meets to vote on particular matter, vote is subject to Open Meeting Act. *November 9, 1982 (AG Op. No. 82-212)*

Member of board operating under Open Meeting Act cannot delegate his right to vote at meeting to another member by use of proxy. *January 20, 1982 (AG Op. No. 82-7)*

Public announcement in presence of board members that vote of board of education was 5-0 in favor of non-renewal of teacher's contract satisfied statutory requirement that vote of each member be publicly cast. *Graybill v. Oklahoma State Board of Education, 585 P.2d 1358 (Okla. 1978)*

## **Section 527. Informal Gatherings or Communications.**

No informal gatherings or any electronic or telephonic communications, except teleconferences as authorized by Section 3 of this act, among a majority of the members of a public body shall be used to decide any action or to take any vote on any matter. **(25-306)**

A single member of a public body may not lawfully meet privately with each other member to obtain signatures on a document and then use that document to take action which otherwise would be required to be considered and voted on in an open meeting. *April 2, 1981 (AG Op. No. 81-69)*

Open Meeting Act applies when members of public body meet among themselves to discuss appropriation of funds. *November 9, 1982 (AG Op. No. 82-212)*

When majority of members of public body are together in an informal setting and begin discussing matters concerning business of public body, discussion comes under auspices of Open Meeting Act. *November 9, 1982 (AG Op. No. 82-212)*

## **Section 528. Executive Sessions.**

A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;

2. Discussing negotiations concerning employees and representatives of employee groups;
3. Discussing the purchase or appraisal of real property;
4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;
5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or the student's parent, attorney or legal guardian;
6. Discussing matters involving a specific handicapped child;
7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;
8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act; or
9. Discussing the following:
  - a. the investigation of a plan or scheme to commit an act of terrorism,
  - b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
  - c. plans for deterrence or prevention of or protection from an act of terrorism,
  - d. plans for response or remediation after an act of terrorism,
  - e. information technology of the public body but only if the discussion specifically identifies:
    - (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
    - (2) system configuration information,
    - (3) security monitoring and response equipment placement and configurations,
    - (4) specific location or placement of systems, components or devices,
    - (5) system identification numbers, names, or connecting circuits,
    - (6) business continuity and disaster planning, or response plans, or

(7) investigation information directly related to security penetrations or denial of services, or

f. the investigation of an act of terrorism that has already been committed.

For the purposes of this subsection, the term “terrorism” means any act encompassed by the definitions set forth in section 1268.1 of Title 21 of the Oklahoma Statutes.

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D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and

2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public. **(25-307)**

**Note:** See Section 62 -- Excluding Litigious Board Member from Proceedings

Statutory provision authorizing executive sessions of public bodies for the purpose of discussing certain employment matters applies to discussing particular current or prospective public officers or employees and does not permit the discussion of a job opening for a public officer or employee when no particular individual is to be discussed. *May 11, 2006 (AG Op. No. 07-17)*

Discussing award of a contract for professional services when the recipient will be an independent contractor, rather than a public officer or employee of the public body, is not a proper subject for an executive session. A body may convene in executive session for confidential communication with its attorney concerning pending investigation, claims, or actions, if the body and the attorney determine that disclosure will seriously impair the public body's ability to address the issue in the public interest. A "pending claim" can refer to litigation or an administrative action which either presently exists or is merely potential or anticipated. *August 31, 2005 (AG OP. No. 05-29)*

An agenda item for an executive session to discuss personnel matter must identify either the position to be discussed, if the position is so unique as to allow adequate identification, or the name of the

individual to be discussed. When the action is hiring, the agenda item must clearly identify the specific position to be filled. *January 26, 1998 (AG Op. No. 97-61)*

A public body may go into executive session for the purpose of discussing the salary of an individual salaried public officer or employee. *July 23, 1996 (AG Op. No. 96-40)*

Under 25-307, a public body may hold executive sessions to discuss the appointment of salaried employees and public officials to fill vacancies. The public body is not required to hold an executive session and should make a determination as to whether an executive session is warranted. *November 24, 1992. (AG Op. No. 92-23)*

Board cannot hold executive session to hear parental complaint or grievance except when board is considering expulsion or suspension of student. *June 30, 1982 (AG Op. No. 82-209)*

Public body cannot confer in executive session with its attorney on legal issues raised during open hearing on disciplinary complaint. *March 26, 1979 (AG Op. No. 79-32)*

Executive session may be held for confidential communication between board and attorney if communications concern a pending investigation, claim or action. *Okla. Assoc. Of Municipal Attorneys v. State, 577 P.2d 1310 (Okla. 1978)*

## **Section 529. Authorized Teleconferences.**

A. A public body may hold meetings by videoconference where each member of the public body is visible and audible to each other and the public through a video monitor, subject to the following:

1. No less than a quorum of the public body shall be present in person at the meeting site as posted on the meeting notice and agenda;

2. The meeting notice and agenda prepared in advance of the meeting, as required by law, shall indicate the meeting will include videoconferencing locations and shall state:

a. the location, address, and telephone number of each available videoconference site, and

b. the identity of each member of the public body and the specific site from which each member of the body shall be physically present and participating in the meeting;

3. After the meeting notice and agenda are prepared and posted, as required by law, no member of the public body shall be allowed to participate in the meeting from any location other than the specific location posted on the agenda in advance of the meeting;

4. In order to allow the public the maximum opportunity to attend and observe each public official carrying out the duties of the public official, a member or members of a public body desiring to participate in a meeting by videoconference shall participate in the videoconference from a site and room located within the district or political subdivision from which they are elected, appointed, or are sworn to represent;

5. Each site and room where a member of the public body is present for a meeting by videoconference shall be open and accessible to the public, and the public shall be allowed into that site and room. Public bodies may provide additional videoconference sites as a convenience to the public, but additional sites shall not be used to exclude or discourage public attendance at any videoconference site;

6. The public shall be allowed to participate and speak, as allowed by rule or policy set by the public body, in a meeting at the videoconference site in the same manner and to the same extent as the public is allowed to participate or speak at the site of the meeting;

7. Any materials shared electronically between members of the public body, before or during the videoconference, shall also be immediately available to the public in the same form and manner as shared with members of the public body; and

8. All votes occurring during any meeting conducted using videoconferencing shall occur and be recorded by roll call vote.

B. No public body shall conduct an executive session by videoconference. **(25-307.1)**

**Note:** Amended by SB 69, Sec. 2 of the 2007 Reg. Sess. Effective November 1, 2007.

### **Section 530. Meetings with Governor.**

Any meeting between the Governor and a majority of members of any public body shall be open to the public and subject to all other provisions of this act. **(25-308)**

### **Section 531. Meetings of Legislature.**

The Legislature shall conduct open meetings in accordance with rules to be adopted by each house thereof. **(25-309)**

### **Section 532. Attendance of Legislative Committees at Executive Sessions.**

Any member of the Legislature appointed as a member of a committee of either house of the Legislature or joint committee thereof shall be permitted to attend any executive session authorized by the Oklahoma Open Meeting Act of any state agency, board or commission whenever the jurisdiction of such committee includes the actions of the public body involved. **(25-310)**

### **Section 533. Notice of Meetings.**

A. Notwithstanding any other provisions of law, all regularly scheduled, continued or reconvened, special or emergency meetings of public bodies shall be preceded by public notice as follows:

1. All public bodies shall give notice in writing by December 15 of each calendar year of the schedule showing the date, time and place of the regularly scheduled meetings of such public bodies for the following calendar year.

2. All state public bodies, including, but not limited to, public trusts and other bodies with the state as beneficiary, shall give such notice to the Secretary of State.

3. All county public bodies, including, but not limited to, public trusts and other bodies with the county as beneficiary, shall give such notice to the county clerk of the county wherein they are principally located.

4. All municipal public bodies, including, but not limited to, public trusts and any other bodies with the municipality as beneficiary, shall give such notice to the municipal clerk of the municipality wherein they are principally located.

5. All multicounty, regional, areawide or district public bodies, including, but not limited to, district boards of education, shall give such notice to the county clerk of the county wherein they are principally located, or if no office exists, to the county clerk of the county or counties served by such public body.

6. All governing boards of state institutions of higher education, and committees and subcommittees thereof, shall give such notice to the Secretary of State. All other public bodies covered by the provisions of this act which exist under the auspices of a state institution of higher education, but a majority of whose members are not members of the institution's governing board, shall give such notice to the county clerk of the county wherein the institution is principally located.

7. The Secretary of State and each county clerk or municipal clerk shall keep a record of all notices received in a register open to the public for inspection during regular office hours, and, in addition, shall make known upon any request of any person the contents of said register.

8. If any change is to be made of the date, time or place of regularly scheduled meetings of public bodies, then notice in writing shall be given to the Secretary of State or county clerk or municipal clerk, as required herein, not less than ten (10) days prior to the implementation of any such change.

9. In addition to the advance public notice in writing required to be filed for regularly scheduled meetings, all public bodies shall, at least twenty-four (24) hours prior to such meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting, such twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma; provided, however, the posting of an agenda shall not preclude a public body from considering at its regularly scheduled meeting any new business. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. "New business", as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting.

10. In the event any meeting is to be continued or reconvened, public notice of such action, including date, time and place of the continued meeting, shall be given by announcement at the original meeting. Only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

11. Special meetings of public bodies shall not be held without public notice being given at least forty-eight (48) hours prior to said meetings. Such public notice of date, time and place shall be given in writing, in person or by telephonic means to the Secretary of State or to the county clerk or to the municipal clerk by public bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of this section. The public body also shall cause written notice of the date, time and place of the meeting to be mailed or delivered to each person, newspaper, wire service, radio station, and television station that has filed a written request for notice of meetings of the public body with the clerk or secretary of the public body or with some other person designated by the public body. Such written notice shall be mailed or delivered at least forty-eight (48) hours prior to the special meeting. The public body may charge a fee of up to Eighteen Dollars (\$18.00) per year to persons or entities filing a written request for notice of meetings, and may require such persons or entities to renew the request for notice annually. In addition, all public bodies shall, at least twenty-four (24) hours prior to such special meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting. Only matters appearing on the posted agenda may be considered at said special meeting. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. Twenty-four (24) hours prior to public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

12. In the event of an emergency, an emergency meeting of a public body may be held without the public notice heretofore required. Should an emergency meeting of a public body be necessary, the person



calling such a meeting shall give as much advance public notice as is reasonable and possible under the circumstances existing, in person or by telephonic or electronic means.

B. 1. All agendas required pursuant to the provisions of this section shall identify all items of business to be transacted by a public body at a meeting, including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.

2. If a public body proposes to conduct an executive session, the agenda shall:

a. contain sufficient information for the public to ascertain that an executive session will be proposed;

b. identify the items of business and purposes of the executive session; and

c. state specifically the provision of Section 307 of this title authorizing the executive session.  
**(25-311)**

A public body is not required under the Open Meeting Act to provide an opportunity for citizens to express their view on issues being considered by a public body. A public body may voluntarily choose to allow such comments. A public body which allows such comments may limit the comments to items on the agenda or may allow for comment on any matters. If comments are to be allowed, an agenda item which provides for "visitors' comments" or "public comments" is sufficient to meet the notice requirements of the Act. *July 9, 2002 (AG Op. No. 02-26)*.

Agenda of State Textbook Committee failed to provide sufficient notice that it was going to consider disclaimer for textbooks. *February 2, 2000 (AG Op. No. 00-7)*

Notices and agendas required to be posted should be posted in a conspicuous place which is easily accessible and convenient to the public for at least 24 hours prior to the meeting in a location at the public body's principal office. *February 18, 1998 (AG Op. No. 97-98)*

All matters to be discussed at a meeting of a public body must be listed on the agenda for the meeting, including a proposal for an executive session. *April 12, 1982 (AG Op. No. 82-114)*

Public body may go into executive session with its attorney to discuss ongoing litigation under "new business" provided matters to be discussed could not have been known about or reasonably foreseen prior to time of posting the agenda. *April 12, 1982 (AG Op. No. 82-114)*

Function of an agenda for a meeting of a public body is to provide public with a factual explanation of matters to be taken up at the meeting. *March 23, 1982 (AG Op. No. 82-81)*

Board of Education cannot appoint new member during regularly-scheduled meeting absent entry of item on published agenda, unless appointment falls within definition of "new business." *June 11, 1981 (AG Op. No. 81-141)*

At a re-scheduled or reconvened meeting of a public body only matters appearing on the original agenda may be considered. *July 10, 1981 (AG Op. No. 81-92)*

Agenda must be worded in plain language that is simple, direct and comprehensible to a person of ordinary education and intelligence. *Order Declaring Annexation, 637 P.2d 902 (Okla. App. 1981)*

Notice and agenda provisions of Open Meeting Act are integral to the Act, and violations of these provisions are significant and material. Violations need not be malicious or wanton to constitute breaking the law. Mere deliberate disregard of Act's provisions violates the Act. *Order Declaring Annexation, 637 P.2d 1270 (Okla. App. 1981)*

### **Section 533.1. Posting on Websites.**

A. On or before January 1, 2002, or within six (6) months of the establishment of an Internet website, whichever is later, public bodies shall make available on their Internet website or on a general website if a public body uses a general website, a schedule and information about the regularly scheduled meetings of the public bodies or their governing bodies. The information made available shall include the date, time, place and agenda of each meeting. When reasonably possible, public bodies shall also provide information about the date, time, place and agenda of any special or emergency meetings of the public body.

B. The provisions of subsection A of this section shall not be construed to amend or alter the requirements of the Oklahoma Open Meeting Act.

C. On or before January 1, 2002, or within six (6) months of the establishment of an Internet website, whichever is later, public bodies shall make available on their Internet website the names of members of their governing bodies and such other information about the members as the public body may choose to include.

D. For purposes of this section, "public body" is defined as provided by paragraph 1 of Section 304 of Title 25 of the Oklahoma Statutes and shall include each institution within The Oklahoma State System of Higher Education. **(74-3106.2)**

### **Section 534. Minutes.**

A. The proceedings of a public body shall be kept by a person so designated by such public body in the form of written minutes which shall be an official summary of the proceedings showing clearly those members present and absent, all matters considered by the public body, and all actions taken by such public body. The minutes of each meeting shall be open to public inspection and shall reflect the manner and time of notice required by this act.

B. In the written minutes of an emergency meeting, the nature of the emergency and the proceedings occurring at such meeting, including reasons for declaring such emergency meeting, shall be included.

C. Any person attending a public meeting may record the proceedings of said meeting by videotape, audiotape or by any other method; providing, however, such recording shall not interfere with the conduct of the meeting. **(25-312)**

*Minutes of executive sessions of meetings of boards of education must be kept. This requirement may be met by taking a written summary of the proceedings. Any person legally present during the executive session of a board of education may take the minutes of the executive session. January 27, 1997 (AG Op. No. 96-100)*

### **Section 535. Violations of Act.**

Any action taken in willful violation of this act shall be invalid. **(25-313)**

*Vote of State Textbook Committee pursuant to insufficient agenda was a willful violation of Act and therefore invalid. February 2, 2000 (AG Op. No. 00-7)*

### **Section 536. Penalty for Violation.**

Any person or persons willfully violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars

(\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year or by both such fine and imprisonment. **(25-314)**

Willful violation is all that needs to be proven; criminal intent need not be proven because the crime is malum prohibitum. *Hilliary v. State*, 483, P.2d 483, 630 P.2d 791 (Okla. Ct. Crim. App. 1981)

### **Section 537. Minutes of Board - Copies for Newspapers.**

It shall be the mandatory duty of the minute clerk of the board of each school district and the clerk of the governing body of each city and town to furnish the tentative minutes of every regular and/or special meeting of such school boards and municipal governing bodies to legal newspapers requesting the same in writing, provided any such newspaper must be located in the same county as all or apart of the school district or municipality to which such request is made.

Provided further that such minutes shall be furnished within five (5) days after all such regular and/or special meetings to eligible newspapers requesting the same and that any such written request shall be effective and said minutes shall be furnished in compliance therewith for the current calendar year or remaining portion thereof unless a shorter period shall be specified in said request. **(25-115)**

**Note:** This section was not codified as part of Open Meeting Act.