

# 402. Summary of Open Meetings Act

## I: Intent of the Act

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It is the public policy of the State of Illinois that public bodies exist to aid in the conduct of people's business. It is the intent of the act that their actions, therefore, be taken openly and that their deliberations be conducted openly. (Ch. 109 par. 41)

## II: Coverage

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Any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business shall be public meetings. (Ch. 102 par 4A.02 and 42) It is the legislative intent that the definition of public business is confined to matters over which the public body has authority.

## III: Exceptions

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Public bodies may close a portion of a public meeting or hold a closed meeting for the following purposes:

### 1. Personnel Matters

- a. Collective negotiating matters between public employers and their employees or representatives. (Ch. 102 par 42)
- b. To consider information regarding appointment, employment or dismissal of an employee or officer. (Ch. 102 par. 42) The word employment means renewal or continuance of employment according to an appellate court ruling.
- c. To hear testimony on a complaint lodged against an employee or officer to determine its validity. (Ch. 102 par. 42)
- d. To consider the appointment of a member to fill a vacancy of that body. (Ch. 102 par. 42)

### 2. Legal Matters

- a. To discuss litigation when an action against or on behalf of the public body has been filed and is pending in a court or administrative tribunal, or when the public body finds that such action is probable or imminent. (Ch. 102 par 42(h))
- b. To establish reserves or settle claims for a personal injury action against the public body if the disposition of the claim or potential claim might be prejudiced. (Ch. 102 par. 42)

### 3. Commercial or Financial Matters

- a. To consider the acquisition of real property (Ch. 102 par. 42(c))

### 4. Education Matters

- a. Meetings at public institutions of higher education relating to campus security or to the safety of staff and students. (Ch. 102 par 42(e))
- b. Hearing student disciplinary cases. (Ch. 102 par. 42)

### 5. Miscellaneous

- a. When required by federal regulation (par. 42)
- b. When the state constitution provides for such
- c. Deliberations for decisions of the parole board
- d. To conciliate complaints of discrimination in the sale or rental of housing (Ch. 24 par.11-1A. 11-1)
- e. Discussions of investigations of criminal activities by law enforcement agencies
- f. Deliberations of the Illinois Commerce Commission
- g. Certain decisions of the State Investment Board
- h. Administrative discussions among commissioners of city government
- i. An advisory committee appointed to provide a public body with professional consultation on matters germane to its field of competence may hold a closed meeting to consider matters of professional ethics or performance. (Ch. 203 par. 42)

#### IV: Procedure for Conducting Closed Meetings

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A public body may hold a meeting closed to the public, or close a portion of a meeting to the public:

1. Upon a majority vote of a quorum
2. Taken at a meeting open to the public
3. A single vote may be taken with respect to a series of meetings (provided each meeting in the series involves the same matters and occur within three months of the vote)
4. The vote of each member on the question of closing a meeting and a citation to the specific exception contained in the Open Meetings Act shall be included in the minutes. (Ch. 102 par. 42(a))

#### V: Public Notice of All Meetings

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The act requires public bodies to give public notice, at the beginning of each calendar or fiscal year. Such notice must include:

1. The dates
2. The times
3. The places of regular meetings. (Ch. 102 par. 42.02(a))

Public notice of any SPECIAL, RESCHEDULED, OR RECONVENED meetings must be given at least 24 hours before such meeting. Such notice must include the agenda for the special, rescheduled, or reconvened meeting. Public notice is NOT required, however, for a meeting if:

1. Reconvened within 24 hours
2. The time and place of the reconvened meeting are announced at the original open meeting
3. There is no change in the agenda

A bona fide EMERGENCY MEETING MAY BE HELD WITHOUT 24 HOUR NOTICE. But notice shall be given as soon as practicable prior to the meeting, to any news medium, which has filed an annual request for notice. (Ch. 102 par. 42.02(a))

The act requires that public notice be given in two ways:

1. By posting a notice at the public body's office
2. By sending a notice to any news medium that has filed an annual request to receive such notice. (Ch. 102 par. 42.02(b))

In addition, the schedule of regular meetings must be “available”, presumable at the office of the public body. This schedule must list the time and place of regular meetings. (Ch. 102 par. 42.03)

If a change is made in regular meeting days, notice of the change must be given at least 10 days in advance in the same two ways specified for announcing the original schedule: post a notice at the office, and send a notice to each news medium that filed the annual request. Also, notice of the change must be published “in a newspaper of general circulation in the area....”. If the population served by the public body is less than 500 and there is no newspaper published there, then 10 days’ notice may be given by posting a notice in three prominent places within the district served. (Ch. 102 par. 42.03)

Public meetings must be held at times and places convenient to the public. A public meeting may not be held on a legal holiday “unless the regular meeting day falls on that holiday.” (Ch. 102 par. 42.01)

## VI: Minutes

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All public bodies shall keep written minutes of all meetings, open or closed. Such minutes shall include:

1. The date, time, and place of the meeting
2. The members present or absent
3. General description of all matters proposed, discussed or decided and a record of any votes taken (Ch. 102 par 42.06(b))

## VII: Taping and Filming

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Any person may record the proceedings at public meetings by tape, film, or other means. The public body holding the meeting shall prescribe reasonable rules to govern the right to make such recordings. (Ch. 102 par. 42.05) No standards for such rules are set forth in the Act, but it would be appropriate to observe an Attorney General’s 1975 opinion on recording which stated that is “should not be allowed to interfere with the overall decorum and proceeding of the meeting.” (1975 Ill. Atty Gen. Op. 17) It should also be noted that any rules of a public body must be written and published, after appropriate public notice and deliberation. Rules may not be created on the spot.

## VIII: Enforcement

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The Open Meetings Act provides for two types of enforcement: a civil action by any person and criminal prosecution of violators.

Any person, including the state’s attorney, may bring a civil action in the circuit court where there is probable cause to believe the Open Meetings Act has not or will not be complied with. Such action must be brought prior to or within 45 days after the meeting alleged to be in violation of the act (Ch. 102 par. 43(a)).

The court may grant such equitable relief, as it deems appropriate, including:

1. Requiring a meeting be open to the public
2. Granting an injunction against future violations
3. Ordering the public body to make available to the public such a portion of the minutes of a meeting required to be open
4. Declaring null and void any final action taken at a closed session in violation of the act (Ch. 102 par. 43(a))

Reasonable attorney’s fees and other litigation costs incurred by the party who prevails in any action brought may be assessed against any private party who brings the action only if such action was malicious or frivolous in nature.

In addition to civil court action, violators of the Open Meetings Act also are subject to criminal penalties. Any criminal charges, of course, must be initiated by the state's attorney. Violation of the act is a class C misdemeanor (Ch. 102 par. 44), which is punishable by a \$500 fine and 30 days in jail. (Ch. 38 pars. 1005-8-3 and 1005-9-1).