The Open Meetings Act
Ohio Revised Code
Section 121.22

Presented by Melissa Gossman,
Assistant Legal Counsel

OPEN MEETINGS ACT OVERVIEW

- Definitions
- Obligations
- Executive Session
- Liabilities

WHO IS SUBJECT AND WHEN?
Applies to "public bodies" when:
1. there is a prearranged gathering of
   a majority of the members of a public body
2. conducting or discussing public business
“PUBLIC BODIES”
Includes committees and sub-committees

“MEETING”
Prearranged
Discussion of Public Business
Majority of Members

RETREATS, WORK SESSIONS, ETC.?
MEETING MUST BE USED FOR DISCUSSION AND DELIBERATION OF "OFFICIAL BUSINESS"

NOT NECESSARILY FOR...

- Information gathering
- Presentations
- Isolated conversations between employees

MEETING OBLIGATIONS

1. Notice
2. Openness
3. Minutes

NOTICE RULE REQUIREMENTS

1. Be consistent
2. Actually reach the public
OBLIGATION 1: NOTICE

Public bodies establish their own notice rules

NOTICE REQUIREMENTS DEPEND ON TYPE OF MEETING

Two Types of Meetings:

<table>
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<tr>
<th>Regular</th>
<th>Special</th>
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<tbody>
<tr>
<td>Prescheduled Intervals</td>
<td>Anything other than Regular</td>
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NOTICE: REGULAR MEETINGS

<table>
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<th>Regular</th>
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<tr>
<td>Time</td>
<td>Place</td>
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NOTICE: SPECIAL MEETINGS

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SPECIAL MEETINGS: MEDIA

At least 24 hours notice to all media outlets that have requested it

EMERGENCY MEETINGS

Immediate Notice Required

- Type of special meeting
- Must include media with notice
NOTICE TO PUBLIC OF PLANNED DISCUSSION OF PARTICULAR TOPIC

1. Public body must have a method to sign up for such notice
2. May require payment of reasonable fee

OBLIGATION 2: OPENNESS

Openness

Vote and take official actions in public
OPENNESS

No round-robin meetings
No voting by secret ballot

OPENNESS

Forum requirements:
1. Public
2. In area public body serves
3. Large enough

RECORDING AND SPEAKING?

Cannot ban non-disruptive recording
Do not have to allow public participation
Township trustees hold a regular meeting, where all the members attend, and provide the proper notice to the public. But the doors to the meeting room are accidentally locked while the meeting is ongoing.

**QUIZ**

- Open? ✓
- Not open? ✗

**OBLIGATION 3: MINUTES**

Requirements:
1. Promptly prepared
2. Filed
3. Maintained
4. Open to public
REQUIRED CONTENT

• Not verbatim transcript, but...
• Must allow public (including those who did not attend) to understand decisions of the public body

MINUTES

White v. Clinton Cty. Bd. of Commrs., 76 Ohio St.3d 416 (1996)

Court held:

• Minutes should not be limited to a mere recounting of the body’s roll call votes
• Must be a “full and accurate record”

Minutes did not enable public to understand rationale behind new policy

• Should have provided a better understanding of the Commissioners orders

MINUTES

State ex rel. Long v. Cardington Village Council, 92 Ohio St.3d 54 (2001)

Court found that the Village’s minutes:

• Contained inaccuracies
  • Embraced included former council member in roll call
• Did not contain sufficient facts to understand & appreciate rationale behind decisions
  • Did not include motions or votes
  • In one case, minutes merely state that “a meeting was held to sign off on all accounts”
• Failed to state with specificity the reasons for executive session
  • Listed “personnel” instead of one of the specific matters in O.R.C. 121.22(G)(1)
EXECUTIVE SESSION

PRIVATE

PROPER PROCEDURE

Motion
Second
Roll Call Vote

Identify particular purpose and matter

Do not BEGIN or END a meeting in executive session

Meeting

Insert executive session here!
NINE ACCEPTABLE EXECUTIVE SESSION TOPICS

1. Certain personnel matters (must be specific)
2. Purchase or sale of property
3. Pending or imminent court action
4. Collective bargaining matters
5. Matters required to be kept confidential
6. Security matters
7. Hospital trade secrets
8. Confidential business information of an applicant for economic development assistance
9. Veterans Service Commission applications

QUIZ

Township trustees want to go into executive session to discuss a general OMA issue. Chair moves to adjourn with the board’s attorney to “discuss some legal matters with the attorney for the trustees.” Roll call vote.

✓ Appropriate? ✗ Not appropriate?

✓ Started in open session
✓ Roll call vote to enter executive session
✗ Pending or imminent legal action

Potential OMA violation
WHO CAN BE PRESENT?

1. Members
   • But cannot exclude minority!

2. Anyone else the members invite

WHAT NOT TO DO IN EXECUTIVE SESSION

- Vote
- Make Any Decisions
- Discuss Other Matters

EXECUTIVE SESSIONS - CONFIDENTIALITY

The Open Meetings Act does not create a provision for confidentiality.

Ethics laws and other privileges may require confidentiality
   • BUT - those may not apply if members of the public are invited

NOTE: Just because a record is created in executive session does not make it confidential.
VIRTUAL PARTICIPATION?

Not unless specifically authorized by law...

WHO ENFORCES THE OMA?

• “Any person” by filing a lawsuit
• No public entity enforces the OMA

POTENTIAL LIABILITIES

1. Fine
2. Attorney fees
3. Invalidation of action(s) taken
4. Removal from office
COMMON ORDER OF BUSINESS/AGENDA
- May Establish Order
- Call to order
- Roll call
- Approval of agenda
- Reading, correction and approval of minutes
- Special orders
- Old/unfinished business
- New Business

PRESENTING A MOTION
Maker should say:
• “I move that . . .” OR “I move to . . .”
• Never “I make a motion to . . .” OR “I make a motion that . . .”
• Must be seconded:
  - Indicates only agreement to allow debate

PROCEDURE AFTER A MOTION HAS BEEN MADE AND SECONDED
The chair restates the motion:
“IT has been moved any seconded that . . .”
“Are there any questions?”
Once restated it belongs to the body
DEBATE FOLLOWS

- Member must be recognized by chair
- Moving member has privilege of first speech

AFTER DEBATE IS CONCLUDED

Chair puts the matter to a vote
Chair announces result of vote

QUESTIONS?