

**Open Meetings Training**  
Understand the law, and let  
common sense be your guide

By Lincoln Fillmore

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**What you'll learn**

- ▶ What makes a meeting
- ▶ About open meetings and closed sessions
- ▶ Records of meetings
- ▶ How to break the law, and the consequences

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**The common sense principles**

- ▶ You are a public body, spending public money. All your deliberations and decisions should be made in view of the public.
- ▶ Some limited topics can be discussed privately to protect individual privacy, and to protect the school's liability and competitive advantage in negotiations.
- ▶ Efforts to get around the law smell bad, turn off the public, and are probably illegal

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### What makes a meeting

- ▶ As the policy-making body of a public entity, *all* your meetings are required to be open, consistent with the open and public meetings act
- ▶ A meeting occurs anytime a quorum (as defined by your bylaws) are present to discuss issues related to your school
- ▶ This applies to any location, using any means of communication (including phone and email)

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### Notice of the meeting

- ▶ You must publish a public notice of your meeting so that the public can exercise its right to attend
- ▶ Notice must be given at least 24 hours in advance of the meeting
  - By posting the agenda of the meeting at the location of the meeting, and at your school, if the meeting is held elsewhere
  - By posting on the Public Meeting Notice website: [pmn.utah.gov](http://pmn.utah.gov).

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### Agenda

- ▶ Your notice must have the time, location, and agenda of the meeting
- ▶ In the meeting, the board may only discuss and take action on items on the agenda
  - Items must be listed with "reasonable specificity" (not "Finance Matters" if what you're really doing is amending a budget)
  - If other topics come up, there should not be a lengthy board discussion, except to assign a group to follow up or to put the topic for a future agenda
  - You should always put "Closed Session, if necessary" with valid reasons, just so you have the option if needed

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### Minutes and recordings

- ▶ Meetings must be recorded in audio and written minutes
- ▶ Minutes are the public record, and must be provided to anyone upon request.
- ▶ Minutes are not a transcript. Make it easy on yourself. Your minutes should include a summary of:
  - The times the meeting began and ended, and the names of board members in attendance
  - All matters proposed, discussed or decided
  - Names and substance of information from individuals giving testimony
  - Individual votes on each matter, and
  - Additional information requested by a board member

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### Non-open meetings

- ▶ Some “meetings” that involve members of the board need not be “open and public”
  - Committee meetings that don’t involve a quorum of board members
  - Chance social meetings (running into each other at Costco—happens all the time)
  - Social gatherings, where no school business is discussed

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### Closed Sessions

- ▶ There is no such thing as a closed meeting. All “meetings” of the board are open.
- ▶ The board can move into a closed “session” of the open meeting for limited reasons
  - Character, competence, or health of an individual
  - Strategy sessions regarding collective bargaining, litigation, or the purchase of real estate
  - Deployment of security systems and personnel
  - Investigating criminal misconduct
- ▶ You are never *required* to have a closed session

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## Closed Meetings, part 2

- ▶ To close a meeting
  - The closed session, and the reason(s) for it must be on the agenda for the open meeting
  - The board must vote by roll-call
  - It takes a 2/3 majority to close
- ▶ In the closed meeting
  - Only discuss appropriate topics relevant to the stated reasons for closure
  - Never take action or a vote—all votes and action must be public
- ▶ Closed minutes also must be recorded with audio\* and written minutes, though the records are not public unless a judge determines the session should not have been closed.

\*Closed sessions that discuss only individual competence, character, or health, don't need to be recorded, but the board chair must sign an affidavit to that effect.

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## How to break the law

- ▶ Close a meeting without members voting first in an open meeting
- ▶ Close a meeting for reasons not allowed by the law
- ▶ Take official action during a closed meeting
- ▶ Meet without proper notice
  - Including conference calls
  - Having discussions over email or chat with a quorum of board members

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## Creative ways to get around the law, but that really are still illegal

- ▶ Calling every member individually to see how they'll each vote
- ▶ Discussing it in "committees" (less than a quorum) that involve a quorum over time
- ▶ Emails that involve a quorum of board members
- ▶ Implementing what one board member wants without a board decision

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### What if you break the law

- ▶ A court can void any action you took outside of an open meeting
  - That may have a financial consequence, if an illegal action (like a termination of employment) causes you to owe money
- ▶ You may be liable for reasonable attorney fees and court costs
- ▶ It is a Class B Misdemeanor to discuss in public, what you first discussed in a closed session
- ▶ Repeated violations of open meetings law may be a reason for revocation of your charter

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### Back to common sense

- ▶ If you keep basic common sense principles in mind, you'll likely be okay
- ▶ Remember all your deliberations and decisions should be done in full view of the public, with a few common-sense exceptions
  - So, give notice of when you'll meet and what you'll discuss
  - Err on the side of openness and transparency
  - Follow the guidelines and protocol

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