



VERMONT OPEN MEETING LAW

(1 V.S.A. §§310-314)

Vermont's Open Meeting Law

1 V.S.A. §§ 310 -314

Requires all **meetings** of **public bodies** to be **open to the public** unless a specific exception applies. In order to make a meeting open to the public, the public body must:

- ✓ Provide advance public notice of meetings, including meeting agendas.
- ✓ Discuss all business and take all actions in open meeting, unless an exception applies.
- ✓ Allow members of the public to attend and participate in meetings.
- ✓ Take meeting minutes and make them available to the public.

Applying the Open Meeting Law

What is a 'Public Body?'

- Any board, council, or commission of the State or one or more of its political subdivisions
- Or any committee of any of the boards, councils, commissions, regardless of size

What is a Meeting?

- A quorum is gathered
- To discuss business or take action
- Email conversations are public meetings –subject to the law- with narrow exceptions
- 'Serial' or 'daisy chain' communication may be considered a meeting under the law
- Texts, online editing, social media could be considered meetings

Types of Meetings- Notice Required

Regular Meetings

- Regular day and time set by ordinance or resolution
- Agenda posted 48 hours in advance

Special Meetings

- Take place outside of a regular schedule
- 24 hours notice to members
- Agenda posted 24 hours in advance

Emergency Meetings

- Only when necessary for immediate action
- Public notice must be given as soon as possible before the meeting

Agendas

Posted in or near municipal office

Posted in at least two other places designated for posting

Posted to an official website, if one exists

Content

Allow public to be reasonably informed about topics and actions

Addition to or deletion from the agenda shall be made as the first act of business at the meeting

Location of meeting must be included on the agenda

Temporary Changes:

Agenda must include details for direct telephone and electronic participation

No physical location required

Can use two electronic place rather than physical locations

Minutes

CONTENT

- All members in attendance
- Names of other active participants
- Motions, proposals and resolutions
- Result of all votes

REQUIREMENTS

- Available within 5 days
- Posted on website within 5 days
- Maintained for one year

Temporary Change:

Public bodies may extend minutes availability to 10 days in the event of staff shortage

Executive Session

- Motion to enter Executive Session must be made and passed in open session
- May invite staff, legal counsel, clerical assistance and subjects of discussion
- No formal action taken, except real estate purchase

Best practices

- Topic should be listed on the agenda
- Name the provision of law that applies
- If hybrid or virtual use an electronic meeting system that allows other participants to be placed in a 'waiting room'

Deliberative sessions of quasi-judicial bodies are not open meetings if a written decision is prepared



Executive Session

Items where “premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage.”

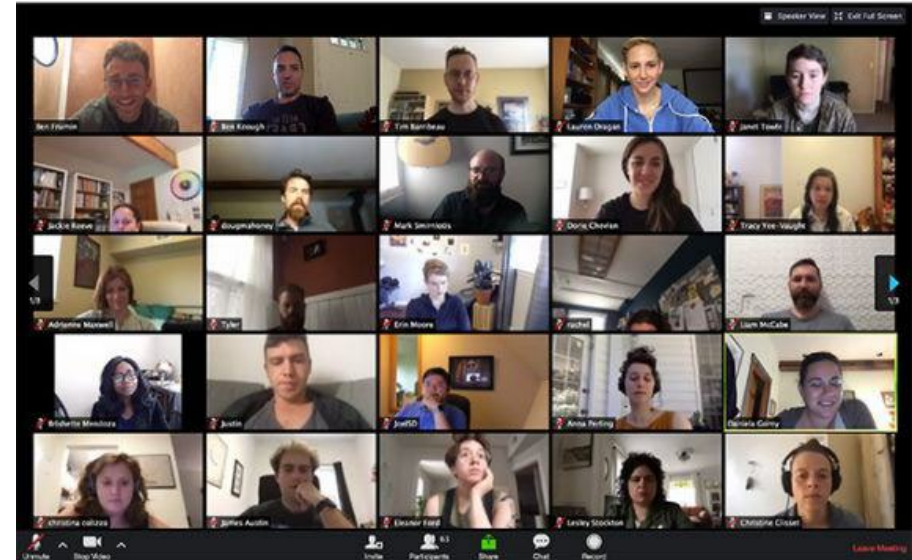
- Contracts
- Labor relations agreements with employees.
- Arbitration or mediation.
- Grievances, other than tax grievances.
- Pending or probable civil litigation or prosecution, to which the public body is or may be a party.
- Confidential attorney-client communications made for the purpose of providing professional legal services.

Executive Session

- Negotiating or securing of real estate purchase or lease options
- Appointment, employment, or evaluation of a public officer or employee, but final hiring or appointment decision, and reasons for the decision, done in open meeting
- Disciplinary or dismissal action against a public officer or employee
- A clear and imminent peril to the public safety
- Exempt records under Vermont's public records act
- Student academic records, suspension, or discipline
- Testimony from a person in a Parole Board parole proceeding
- Information relating to a rebate programs protected from disclosure either by law
- Security or emergency response measures, if disclosure could jeopardize public safety

Electronic Meetings

- Allowed under the Open Meeting Law
- Must have a physical location open to the public
- Roll call votes required if votes not unanimous



Temporary Changes:

Physical location NOT required

Public access by telephone must be provided

Meetings must be recorded (legislative body and school board)

Electronic and Hybrid Meetings

- Each member must hear and be heard
- Members of the public must be able to hear and be heard



Best Practices:

Use safety features of online services

Assign a moderator for meetings

Designate a method of communication for access problems

End the meeting if connection cannot be maintained

Review 'ground rules' for all participants

Individual and Public Rights

- Obtain agendas in advance
- Be notified of meetings
- View or copy minutes
- Listen to recordings
- Attend meetings, with accommodations if needed
- Participate in meetings (reasonably)
- File written notice and civil suit alleging violations



ENFORCEMENT and CORRECTION

Public Body Accepts Violation

- Respond publicly within 10 days
- State the intent to 'cure' the violation
- Adopt specific measures to prevent future violations

Public Body Denies Violation

- Respond publicly within 10 days
- No response= considered denial
- Citizen can file suit within one year of alleged violation

Intentional violation is a misdemeanor and fines up to \$500 can be levied. Courts may also offer injunctions and require payment of attorney's fees.

Summary of S. 222 Changes

Apply Until January 15, 2023

- A public body may meet entirely by electronic or other means without being physically present
- A physical meeting place where the public can attend is not necessary
- Must use technology that allows the public to attend by electronic or other means
- *Must* allow the public to access the meeting by telephone
- Post information on how the public can *directly* access the meeting electronically in its agenda
- Record their meetings (legislative body and school board)
- Time limit for posting meeting minutes may extend from five (5) to ten (10) calendar days if necessary due to staffing shortage

Vermont's Public Records Requirements

1 V.S.A. §§ 315 -320

- ✓ Applies to all *Public Agencies* – includes the CWSP/BWQC
- ✓ Public records must be open to public inspection and copying.
- ✓ Every member of the public has the right to inspect and copy any public record or document of a public agency unless it is exempt from disclosure.
- ✓ Records must be made available during all customary office hours of the custodian of the records.
- ✓ Records must be retained according to retention schedule
- ✓ Applies to paper and electronic records

Tools and Resources Available:

Text of Open Meeting law:

<https://legislature.vermont.gov/statutes/section/01/005>

VT Open Meeting Law

<https://sos.vermont.gov/municipal-division/open-meetings/#:~:text=Vermont's%20open%20meeting%20law%20requires,better%20decision%2Dmaking%20in%20government.>

Public Records Law

<https://sos.vermont.gov/municipal-division/public-records/>

QUESTIONS?

