

2410.02 Open Meetings Act

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PURPOSE

To ensure consistent application of the requirements of the Act.

APPLICATION

Executive Branch Departments and Sub-units.

CONTACT AGENCY

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SUMMARY

The Open Meetings Act, P.A. 267 of 1976, MCL 15.261 et seq. ("OMA") addresses the conduct of public meetings held by public bodies, which include state or local legislative or governing bodies, and boards, commissions, committees, subcommittees, authorities, or councils that are empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function. This discussion focuses only on items most relevant to these agencies. The OMA may be accessed on the Department of Attorney General (AG) website at www.michigan.gov/ag under "Opinions" along with a summary of Michigan Attorney General opinions and Michigan court cases involving OMA. The [Open Meetings Act Handbook](http://www.michigan.gov/documents/ag/OMA_handbook_287134_7.pdf) (http://www.michigan.gov/documents/ag/OMA_handbook_287134_7.pdf) may be found at the AG website.

In general, all meetings of a public body shall be open to the public and held in a place available to the public. Decisions of the public body are to be made in open meetings and, with rare exceptions, all deliberations of a public body constituting a quorum of its members, shall take place at a meeting open to the public.

APPLICABLE FORMS

None.

PROCEDURES

Public Notice Requirements

- A public body is required to provide public notice of regular and special meetings. This notice must contain the name, address and telephone

number of the public body, and must be posted at its principal office and any other locations the public body considers appropriate.

- A schedule of regular meetings must be posted within 10 days after the first meeting of the public body in any calendar or fiscal year. If there is a change in the schedule of a regular meeting of a public body, notice must be posted within 3 days after a change is made. Notice of rescheduled regular or special meetings must be posted at least 18 hours prior to the meeting. Meetings which are recessed for more than 36 hours may be reconvened only after a notice is posted at least 18 hours prior to the meeting.
- Meetings may only be held in residential dwellings if:
 - A non-residential building within the boundary of the local government unit or school system is not available without cost to the public body and
 - If notice of the meeting is published as a display advertisement in a newspaper of general circulation in the city or township where the meeting will be held at least 2 days before the day of the meeting. The notice must state the date, time and place of the meeting. The notice, which shall be at the bottom of the display advertisement and which shall be set off in a conspicuous manner, shall include the following language: "This meeting is open to all members of the public under Michigan's open meetings act."
- A public body must send, by first class mail, a copy of any notice required to be posted under the act, to any person who requests it in writing and who pays a fee equal to the estimated cost of printing and postage. A public body must provide a copy of the public notice to any newspaper published in the state, and any radio or television station located within the state, free of charge, if so requested in writing.

Emergency Meetings and Closed Sessions

- Emergency meetings to address severe and imminent threats to public health, safety or welfare may be held, without the notice requirements being met, if 2/3 of the public body decides that delay would be detrimental to efforts to lessen or respond to the threat.
- Closed sessions may be held only under the following circumstances:
 - To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member or individual agent if the named person requests a closed hearing (requires a majority vote of members elected or appointed and severing).
 - For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement, if either negotiating party requests a closed hearing (requires a majority vote of members elected or appointed and serving).

- To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained (requires a 2/3 roll call vote of members elected or appointed and serving).
- To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigation or settlement position of the public body (requires a 2/3 roll call vote of members elected or appointed and serving).
- To review the specific contents of an application for employment or appointment to a public office, if the candidate requests that the application remain confidential. However, with minimal exceptions, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting (requires a 2/3 roll call vote of members elected or appointed and serving).
- To consider material exempt from discussion or disclosure by state or federal statute (requires a 2/3 roll call vote of members elected or appointed and serving).

Minutes

- Minutes are required to be kept for both open and closed sessions. Minutes must contain, at a minimum: date, time, place, members present, members absent, all roll call votes, any decisions made at an open session, and the purpose or purposes for which a closed session is held.
- Corrections to minutes must be made not later than the next meeting. Corrected minutes must be available at the meeting immediately following that at which the corrections were made. Corrected minutes must show both the original entry and the correction.
- Minutes must be available for public inspection at the address posted on the notice, and must be available for printing and copying at reasonable cost.
- Proposed minutes must be available within 8 business days after the meeting to which the minutes refer. Approved minutes must be available within 5 business days after the meeting at which they are approved.

Persons Who May Attend

- All persons are allowed to attend public meetings. They may tape-record, videotape, broadcast live on radio or telecast the proceedings on television.
- To minimize the possibility of disruptions at meetings, public bodies may establish reasonable rules and regulations.
- Persons may address a public body during a meeting of the public body in accordance with rules which the public body has established and recorded.

Legal Actions

- Any person may challenge the validity of a decision of a public body made in violation of the Act.

- Actions to compel compliance with the OMA must be brought within 60 days after the approved minutes involving the challenged decision are made publicly available. If the issue involved approval of contracts, receipt or acceptance of bids, the making of assessment, the procedures pertaining to the issuance of bonds or other indebtedness, or the submission of a borrowing to the electors, the action must be brought within 30 days after the approved minutes are made publicly available.
- A public body may re-enact a disputed decision in conformity with this Act, if the allegation is that the action was taken in violation of the Act, without being deemed to have made any admission contrary to the interest of the public body. Any such decisions are effective from the date of re-enactment.
- Any person may bring an action in mandamus in the court of appeals, or for injunctive relief in circuit court. Successful complainants may receive court costs and attorney fees.
- Public officials found guilty of intentionally violating the Act may be assessed a fine of not more than \$1,000. A second violation within the same term carries a fine of not more than \$2,000 or imprisonment for not more than 1 year, or both. In addition, public officials may be held liable personally in civil actions, for actual and exemplary damages of not more than \$500, plus court costs and attorney fees.

Exclusions

- The Act does not apply to:
 - The Workers' Compensation Appeal Board, when deliberating the merits of a case.
 - The Employment Security Board of Review, when deliberating the merits of a case.
 - An arbitrator or arbitration panel appointed by the Employment Relations Commission, when deliberating the merits of a case.
 - The State Tenure Commission when acting as a board of review from the decision of a controlling board, when deliberating the merits of a case.
 - An arbitration panel selected under Chapter 50A of the Revised Judicature Act, when deliberating the merits of a case.
 - The Michigan Public Service Commission, when debating the merits of a case.
 - An association of insurers created under the Insurance Code or other association or facility forms under the Insurance code as a nonprofit organization of insurer members.
 - A committee of a public body which adopts a non-policy making resolution of tribute or memorial that is not adopted at a meeting.
 - A meeting which is a social or chance gathering or conference, not designated to avoid the Act.

- The Michigan Veterans' Fund Board of Trustees or a county or district committee created under MCL 35.601 to 35.610, when the Board of Trustees or county or district committee is deliberating the merits of an emergent need.
