

# Office of Attorney General

## OPEN MEETINGS GUIDE

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North Dakota's laws state that all government records and meetings must be open to the public unless otherwise authorized by a specific law. The basic laws are found in North Dakota Century Code, beginning at §44-04-17.1. The public has the right to know how government functions are performed and how public funds are spent.

### DEFINITION OF MEETING

**Meeting** means *any gathering of a quorum of the members of a governing body of a public entity regarding public business*, and includes committees and subcommittees, informal gatherings or work sessions, and discussions where a quorum of members are participating by phone or any other electronic communication (either at the same time or in a series of individual contacts).

- If a governing body delegates any authority to two or more people, the newly formed committee is subject to the open meetings law even if the committee does not have final authority or is just fact-finding. What it is called does not matter, it is still a committee. Committee meetings must be noticed and minutes taken.
- Portfolios are a committee of the governing body if more than one commissioner holds the portfolio.
- Emails or text messages between members of a committee or subcommittee regarding public business may constitute a meeting and violate open meeting laws.

Training seminars and purely social gatherings attended by a quorum of a public entity are not meetings, however, as soon as the members discuss any public business, it becomes a "meeting."

### MEETING SCHEDULES

If the governing body holds regularly scheduled meetings, the schedule of these meetings must be posted annually on the entity's official website **OR** filed with the Secretary of State (for state agencies), the City Auditor (city level entities), or the County Auditor (all other entities).

- The annual meeting schedule also must be furnished to anyone who requests the information.
- Filing the annual meeting schedule does not relieve a public entity of its obligation to post a meeting notice/agenda for each meeting.

### MEETING NOTICES

Prior written notice is required for all meetings of a public entity, including committees and subcommittees.

- Generally, there is **no minimum advance notice period** for public meetings.

An entity must provide public notice of the date, time and location of a meeting when the governing body is notified. As soon as an agenda is prepared and given to the governing body, it must be posted and provided to the public in the same manner as the meeting notice.

- If an executive session is anticipated, the meeting notice also must include the executive session as an agenda item, along with the subject matter and the legal authority for the executive session.

**Regular** meeting agendas may be added to or altered at the time of the meeting. For **special** or **emergency** meetings, however, *only* the specific topics included in the notice may be discussed.

### PROVIDING PUBLIC NOTICE OF MEETINGS

At the same time the governing body is notified of the meeting, the meeting notice must be:

1. Posted at the main office of the public entity, if the entity has a main office.
2. Posted at the location of the meeting, if held somewhere other than the entity's main office.
3. Posted on the public entity's website **OR** filed with the appropriate official [the Secretary of State for state-level entities, the city auditor for city-level entities, and the county auditor(s) for all other entities].
4. Provided to any individual who has requested notice of the meeting.

Notice of special or emergency meetings also must be given to the entity's official newspaper. Generally, there is no requirement that the meeting notice be published.

If asked, a public entity must provide a requester with personal notice of its meetings. Unless the requester specifies a shorter time period, the request to receive notice is good for one year.

### PUBLIC PARTICIPATION

A member of the public has the right to attend an open meeting and to record or broadcast the meeting, but **does not have the right to speak**.

### EXECUTIVE SESSIONS

Only the portions of a public meeting that are specifically confidential or exempt from the open meetings law may