




Open Governmental Proceedings Act

WV Code 6-9A-1 through 12



Applies to:

- All Governing Bodies of public agencies
 - Standing Committees of Governing Bodies
 - Any Committee with two or more members of the Governing Body that will make recommendations to Governing Body
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Meetings Subject to Act

- Any convening of a governing body for which a quorum is required to make a decision or deliberate toward a decision on any matter which results in an official action
- Includes convening of committees that have authority to take action or make recommendations



NOT A Meeting

- On-site inspections
- Discussions on logistical and procedural methods to schedule and regulate a meeting
- General discussions in social, educational, training, informal, ceremonial, or similar settings without intent to conduct public business or for the discussion to lead to an official action



Requirements if a Meeting

- Notice of meeting published in the State Register at least 5 calendar days before meeting
- Notice to include date, time, and place of meeting
- Notice for emergency meetings filed anytime prior to meeting but circumstances of emergency must be detailed



Emergency Meetings

- “Emergency” involves an unexpected situation or sudden occurrence of a serious nature, such as an event that threatens public health or safety
- Situation requires immediate official action
- If in doubt, consult with Ethics Commission staff



Agendas

- Agendas must be available to public at least 3 calendar days before meeting
- May be amended prior to meeting if an emergency occurs
- Agenda items must be specific enough for public to be aware of the issues to be discussed
- Vague headings on agenda to be avoided



Agenda

- Regular meeting---3 business days in advance
- Special meeting---2 business days in advance
- Business days do not include the day of the meeting, weekends or legal holidays
- Post in public place by close of business on Day 1



Actual Meeting

- Quorum must be obtained
- Only items on the agenda may be acted upon
- Items not on the agenda but raised at the meeting may be discussed to the extent necessary to determine whether future action needs to be considered
- Members may question staff or audience on issues raised



Actual Meeting

- Governing Body not required to allow members of the public to speak
- Reasonable rules may be adopted to regulate the meeting
- Disruptive individuals may be removed from meeting
- If members of public allowed to speak they may not be required to sign up to speak more than 15 minutes prior to the meeting
- No secret ballots or proxy votes allowed



Actual Meeting

- Members may attend telephonically but they must be audible to members of the public and media
- Votes may not be taken by reference to a letter, number or other designation rendering it difficult for the public to know what action is being taken unless an agenda or other materials are available for inspection by the public detailing the action



Executive Session

- Only authorized by majority vote of governing body
- Statutory exemption or generic description must be set out in the motion to go into executive session
- No votes taken in executive session
- May only discuss items in executive session consistent with the motion and vote taken



Executive Session Exceptions

- Acts of war or civil insurrection
- Personnel matters—but not general personnel policy issues
- Student discipline
- Issuance or revocation of a license
- Physical or mental health of a person
- Material the disclosure of which would constitute an unwarranted invasion of an individual's privacy



Executive Session Exceptions

- Official investigations relating to law enforcement
- Security personnel or devices
- Matters involving purchases of property, investment of funds, or commercial competition which if made public might adversely affect the state's financial interest
- To avoid the premature disclosure of a honorary degree, prize, or similar award
- Attorney-client privileged communications



Minutes

- Must be available to public within reasonable time
- Reflect date, time and place of meeting and which members were present and absent
- Contain all motions and their disposition
- If an emergency meeting, or emergency agenda item added, facts and circumstances constituting emergency



Failure to Comply

- Circuit Court actions may be filed up to 120 days after complained of action taken to enforce compliance or annul a decision
- Willful and knowing violations are a misdemeanor with a fine of not more than \$500
- Subsequent offenses are fines of no less than \$100 nor more than \$1000