



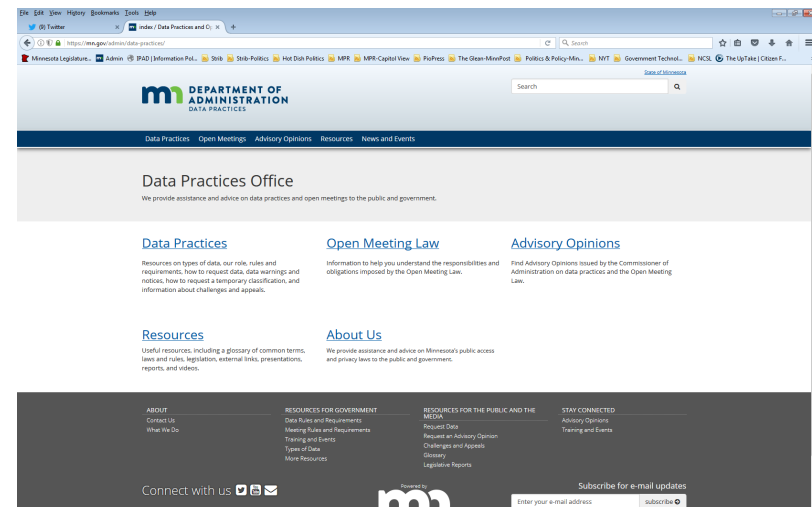
Open Meeting Law Overview

MN Senate Local Government Policy

January 26, 2021

Data Practices Office

- Statewide resource on Minnesota's data practices and open meeting laws
 - Informal advice/technical assistance to government, public, media and Legislature
 - Advisory opinions
 - Website, newsletters, Twitter
 - Legislative assistance
 - Training



Open Meeting Law

With limited exceptions, all meetings of public bodies must be open to the public.

Minnesota Supreme Court stated three purposes:

- To prohibit actions taken at secret meetings
- To assure the public's right to be informed
- To give the public an opportunity to present its views to the public body
 - However, the law is silent on whether people can speak at a meeting

What is a “meeting” subject to the law?

- The “quorum” rule

- *Moberg v. Independent School District No. 281*, 336 N.W.2d 510 (Minn. 1983).

- Two parts to the rule

1. Quorum (majority) or more of full public body, or quorum of any of the public body’s committees, subcommittees, etc. – and
2. Quorum (majority) discusses, decides, or receives information as a group on issues relating to its official business

Gatherings not covered by the law

- Chance or social gatherings (banquets, parties, etc.)
 - *St. Cloud Newspapers v. District 742 Community Schools*, 332 N.W.2d 1 (Minn. 1983).
- Trainings/Team Building
 - Attorney General opinion 63a-5, Feb. 5, 1975
 - Advisory Opinion 16-006
- Gatherings of less than a quorum of members



Serial meetings

- Meetings of groups of less than a quorum
 - To avoid public hearings or reach agreement on an issue
 - Might be a violation depending on specific circumstances
 - *Mankato Free Press v. City of N. Mankato*, 563 NW 2d 291 (Minn. App. 1997)

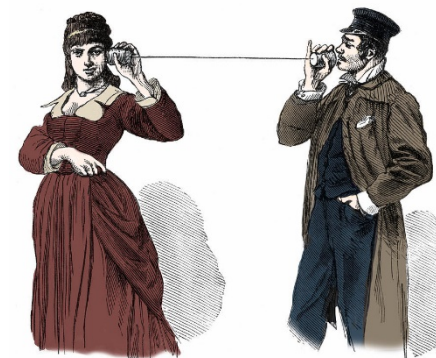


Types of meetings

- Regularly scheduled meetings (Minn. Stat. § 13D.04, subd. 1)
- Special meetings (Minn. Stat. § 13D.04, subd. 2)
 - Any meeting not on the regular schedule
- Emergency meetings (Minn. Stat. § 13D.04, subd. 3)
 - Special meetings called because circumstances don't allow for a 3-day prior notice

Electronic and telephone meetings

- Meetings by interactive television allowed (13D.02)
 - All members of the body participating in the meeting can hear and see one another
 - Members of the public at the regular meeting location of the body can hear and see all discussion and testimony and all votes
 - At least one member of the body is physically present at the regular meeting location
 - Each location at which a member is present is noticed and open to the public
- Telephone meetings ok for declared emergencies/health pandemics (13D.021)
- Statewide public bodies can have telephone meetings in non-emergencies (13D.015)



Closing meetings



- Meetings may be closed only if required or permitted by law
- Statement on the record before closing a meeting
 - Legal authority to close the meeting
 - Describe what will be discussed
- Must be recorded, and retained for 3 years unless otherwise specified
- No general “personnel exception” to close a meeting

Meetings *must* be closed to discuss

(Minn. Stat. section 13D.05, subd. 2)

- Alleged victims or mandated reporters of certain offenses
- Active criminal investigations
- Private education data
- Law enforcement officer misconduct
- Certain other not public data
- Medical records
- Preliminary consideration of allegations or charges about an individual subject to the body's authority*

Meetings *may* be closed to discuss

(Minn. Stat. sections 13D.03 and 13D.05, subd. 3)

- Certain labor negotiations
- Performance evaluations of individuals subject to the public body's authority*
- Certain property transactions
 - Asking price for property
 - Review of appraisals
 - Offers or counteroffers for property
- Certain security matters



Meetings *may* be closed, cont'd

- Meetings may also be closed if:
 - Required by another law (Minn. Stat. § 13D.05, subd. 2)
 - Permitted by the attorney-client privilege (Minn. Stat. § 13D.05, subd. 3(b)), but narrower application
 - *Minneapolis Star and Tribune Co. v. H.R.A.*, 246 N.W.2d 448 (Minn. 1976).
 - *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002).
 - Advisory Opinion 14-017 (exception applies when balancing the purposes of the attorney-client privilege against the purposes of the OML dictates the need for *absolute confidentiality*)

Penalties



- **Intentional violation** (Minn. Stat. § 13D.06, subd. 1)
 - Personal liability – \$300 fine
- **Three intentional violations** (Minn. Stat. § 13D.06, subd. 3)
 - Forfeit office
 - *Funk, et al. v. O'Connor, et al.*, 916 N.W.2d 319 (Minn. 2018)
- Reasonable costs, disbursements, attorney fees (Minn. Stat. § 13D.06, subd. 4)
- No reversal of public body actions taken while in violation of the law

Department of Admin, Data Practices Office

Ask questions and learn more!

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Email: info.dpo@state.mn.us

Website: mn.gov/admin/data-practices

Twitter: [@MNgovdata](https://twitter.com/MNgovdata)

YouTube: <https://www.youtube.com/user/INFOIPAD>

Thank you!

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