PUBLIC MEETINGS
2017 SUMMER BOARD CONFERENCE

ORS 192.610(5) “Meeting” means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. “Meeting” does not include any on-site inspection of any project or program. “Meeting” also does not include the attendance of members of a governing body at any national, regional or state association to which the public body or the members belong.

“Even if a meeting is for the sole purpose of gathering information to serve as the basis for a subsequent decision or recommendation by the governing body, the meetings law will apply.” Oregon Attorney General’s Public Records and Meetings Manual, p. 139.
<table>
<thead>
<tr>
<th>Type of Meeting</th>
<th>Requirements</th>
<th>Regular</th>
<th>Special</th>
<th>Emergency</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Location</strong></td>
<td>Accessible and nondiscriminatory.</td>
<td>Within geographic boundaries, at administrative headquarters or nearest practical location.</td>
<td></td>
<td>If an actual emergency necessitates immediate action, can be held elsewhere.</td>
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<tr>
<td>ORS 192.630</td>
<td></td>
<td>Exceptions: trainings, inspections, attendance at conference—No deliberations or decisions</td>
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<td><strong>Notice</strong></td>
<td>“Reasonably calculated to give actual notice to interested persons”</td>
<td>At least 24 hours’ notice</td>
<td>“Such notice as is appropriate to the circumstances, but the minutes for such meeting shall describe the emergency justifying less than 24 hours’ notice.”</td>
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<td>ORS 192.640</td>
<td></td>
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<td><strong>Minutes</strong></td>
<td>“A true reflection of the matters discussed at the meeting and the views of the participants.”</td>
<td>Must include:</td>
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<tr>
<td>ORS 192.650</td>
<td>“(a) All members of the governing body present; (b) All motions, proposals, resolutions, order, ordinances and measures proposed and their disposition; (c) The results of all votes and… the votes of each member by name; (d) The subject of any discussion on any matter; and (e)… a reference to any document discussed at the meeting.”</td>
<td></td>
<td>See sample in AG manual, p. K-10</td>
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<td><strong>Interpreters</strong></td>
<td>“The person requesting the interpreter shall give the governing body at least 48 hours’ notice of the request for an interpreter…”</td>
<td>Good faith effort. If &lt; 48 hours’ notice for meeting, reasonable effort.</td>
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Executive Session

Executive Sessions can be held as part of any regular, special or emergency meeting. Common reasons for executive sessions:

1. To consider the employment of a public officer, employee, staff member or individual agent. (ORS 192.660(2)(a))—You must meet the requirements of ORS 192.660(7)(d) prior to going into executive session under (2)(a).
2. To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing. (ORS 192.660(2)(b))
3. To conduct deliberations with persons designated by the governing body to carry on labor negotiations. (ORS 192.660(2)(d))
4. To conduct deliberations with persons designated by the governing body to negotiate real property transactions. (ORS 192.660(2)(e))
5. To consider information or records that are exempt by law from public inspection. (ORS 192.660(2)(f))
6. To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. (ORS 192.660(2)(h))
7. To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing. (ORS 192.660(2)(i))
8. To consider matters relating to school safety or a plan that responds to safety threats made toward a school. (ORS 192.660(k))
9. To review the expulsion of a minor student from a public elementary or secondary school. (ORS 332.061(1)(a))

SAMPLE SCRIPT TO ANNOUNCE START OF EXECUTIVE SESSION

The [governing body] will now meet in executive session pursuant to ORS 192.660(_) which allows the Commission to meet in executive session to ________________________________.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.


NOTES

______________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________

3 | OSBA Summer Board Conference, July 2017
Media Attendance

ORS 192.660
(4) Representatives of the news media shall be allowed to attend executive sessions other than those held under subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061 (2) but the governing body may require that specified information be undisclosed.

(5) When a governing body convenes an executive session under subsection (2)(h) of this section relating to conferring with counsel on current litigation or litigation likely to be filed, the governing body shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

Technology

Any number of Board members can attend any meeting via technology. A few things to be aware of:

- Make sure that the Board member attending via technology can hear all proceedings.
- Make sure that the Board member attending via technology can be heard by all in attendance when speaking.
- Make sure that any Board member attending via technology is recorded in the minutes. If the Board member is attending only part of the meeting, note the time or arrival and exit.

ORS 192.670 Meetings by means of telephone or electronic communication.
(1) Any meeting, including an executive session, of a governing body of a public body which is held through the use of telephone or other electronic communication shall be conducted in accordance with ORS 192.610 to 192.690.

(2) When telephone or other electronic means of communication is used and the meeting is not an executive session, the governing body of the public body shall make available to the public at least one place where, or at least one electronic means by which, the public can listen to the communication at the time it occurs. A place provided may be a place where no member of the governing body of the public body is present.
Public Comment

While providing a public comment period during Board meetings is a great way to connect and hear from members of your community, you are not required to have public comment (except for a few specific instances). You may have Board meetings that you choose not to have public comment periods. The AG manual states “the right of public attendance guaranteed by the Public Meetings Law does not include the right to participate by public testimony or comment.” P. 151. Check your policy BDDH for information specific to your district.

Committees

Generally, Board committees are subject to public meeting laws. Superintendent committees are not, so long as they make recommendations to the superintendent who can make changes prior to passing the recommendation onto the Board. The AG manual clarifies:

“\[T\]he application of the Public Meetings Law to meetings of a committee… depends on whether the appointing body directs the committee members to make their findings and recommendations individually or as a recommendation of the group. If the decision or recommendation is to be made by the group, whether by consensus or majority vote, the Public Meetings Law applies. However, if committee members are instructed to make individual rather than group decisions or recommendations, the “meetings” of the committee are outside the scope of the meetings law. This unquestionably is a difficult area of interpretation, and governing bodies are cautioned not to misuse the committee appointment process to subvert the policy of the Public Meetings Law.” P. 137-138.

Resources

Public Meetings Law, Board Meetings and Executive Session, http://www.osba.org/Members/LeftNav/MbrResources.aspx (Free PDF download with OSBA login)


District policies, BD series

Spencer Lewis, OSBA Member Services Attorney slewis@osba.org, 800-578-6722

Nothing in this handout is intended as legal advice. If you need legal assistance, please contact your district’s legal counsel.