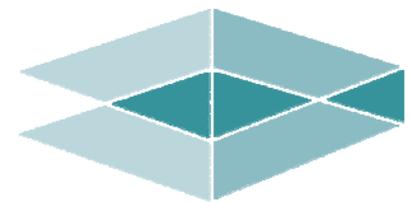


SCHOOL BOARD MEETINGS AND MINUTES IN LIGHT OF THE OPEN MEETINGS LAW AND THE RULES GOVERNING CLOSED SESSION

WISCONSIN ASSOCIATION OF SCHOOL SUPERINTENDENT ASSISTANTS
APRIL 28, 2017

ATTORNEY SHANA R. LEWIS
SLEWIS@STRANGPATTESON.COM



**STRANG, PATTESON
RENNING, LEWIS & LACY**

Open Meetings Law

- Governmental Body:
 - Board.
 - Board Committee.
 - Board appointed group.
- Meeting:
 - The convening of members for the purpose of exercising responsibilities, authority, power or duties delegated to or vested in the body.
 - There is a presumption that a meeting is occurring if a quorum is present.
 - This term does not apply to social or chance encounters.

Open Meetings Law Notice

- Notice Requirements:
 - Notice must be provided to the public, to the news media, as requested, and to the official newspaper.
 - Notice must be posted at least 24 hours before the meeting and, only if good cause exists, at least 2 hours before the meeting.
- Notice contents:
 - A proper meeting notice will include the time, date, and place of the meeting, as well as the subject matter(s) to be covered.
 - When describing the subject matter(s) to be covered, it must be in a form that is reasonably likely to apprise the public of the subject matter(s).
 - Generic agenda items (e.g., Superintendent Report) should be avoided to the extent possible.

Voting

- Voice vote.
 - Roll call vote.
 - Written ballot.
 - Secret ballot.
 - Majority of those voting.
 - Majority of the full membership of the Board.
 - Super-majority, e.g., 2/3 or unanimous consent.
 - Consent agenda items.
- 

Public Comment Period

- The law does not require a public comment period.
- The law permits public comment period.
- If such a public comment period is offered, the meeting notice must include such information.
- The governmental body may place reasonable restrictions on the public comment period.
- CHECK YOUR POLICIES!

Closed Session

- Any meeting may include a closed session portion provided the closed session, including the subject matter and statutory basis, is referenced in the notice.
- Closed sessions must be based on one or more of the purposes (known as exemptions) in the Open Meetings Law.
 - Judicial or Quasi-Judicial Matters.
 - Employee Discharge/Discipline.
 - Employee Compensation and Evaluation.
 - Competitive or Bargaining Reasons.
 - Personnel and Investigations.
 - Conference with legal counsel.
- No meeting may begin in closed session.
- Before convening in closed session, the chief presiding officer of the meeting must announce the intention to go into closed session and read the portion of the notice that references the subject matter and statutory basis for the closed session.
- Next a motion to go into closed session must be made, seconded and approved by a majority of the members voting. A roll call vote is required.
- Action may be taken in closed session, but only when necessary.
- Minutes must be recorded and maintained with regard to any actions taken in closed session. Keep separate from open session meetings.
- It is not advisable to record closed sessions, except pupil expulsion hearings.
- The Board decides who is present during closed session. However, the Board may not exclude one of its members from the closed session, even if there is a good reason to do so, e.g., conflict of interest.
- Only may reconvene in open session following a closed session if the notice explicitly provides that this will occur.

School Board Members' Use of Technology

- Email use by school board members (especially REPLY ALL) continues to create concerns regarding Open Meetings Law violations.
- Often discovered in the context of compiling records in response to public records requests. Note: The District cannot refuse to release a public record simply because it is evidence of an Open Meetings Law violation.
- What can you do?
 - Provide reminders to school board members to be cautious.
 - When emailing school board members use the BCC line so they cannot REPLY ALL.
 - Work with IT Department to disable REPLY ALL for school board member email accounts.

Enforcement and Penalties

- Who enforces?
 - Attorney General.
 - Local District Attorney.
 - Any other Individual.
- What is the statute of limitations?
 - AG and DA have 6 years.
 - Individual has 2 years, but cannot file within the first 20 days of submitting verified complaint.
 - No notice of claim required.
- Penalties.
 - \$25-\$300 per violation for members of the governmental body.
 - May not be reimbursed by the District.
 - May void action taken during the meeting.
- What do you do when you know the Board is violating the Open Meetings Law?
 - You should work with the Superintendent to inform the Board members.
 - You should work with the Superintendent to remind the Board members about the potential consequences.
 - You have no obligation to report the Board to the AG or DA.
- **Only members of governmental bodies are subject to penalties under the Open Meetings Law.**
 - The Superintendent's Assistant is not a member of a governmental body.
 - However, employment consequences may occur for errors in job performance.

Minutes

- Minutes must include all motions and actions, including motions, seconds, voice votes and roll call votes.
 - Except as required in policy or law, there is no need to create a transcript of the meeting or even to identify who spoke during the meeting.
 - Minutes (including closed session minutes) are public records subject to disclosure.
 - Minutes must be published within 45 days after the meeting.
- 

Thank you.
