



# The Arizona Open Meeting Law



## A.R.S. §§ 38-431, *et seq.*

*“All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.”*

38-431.01(A)





# To whom does law apply?

- ***The Governing Board***
- ***Standing, special or advisory committees or appointed by the Board***





# “Meeting” Defined

- Gathering of a quorum of the members (quorum = 3 or more members)
- In person or by technological means (telephone, e-mail, video conferencing)
- When they discuss, propose or take legal action
- When they deliberate regarding legal action





# **Legal Action Defined**

Collective decision, commitment,  
or promise made by the public  
body (or subject committee)

# Discussions and Deliberations Defined

All discussions, deliberations or consultations among a majority of the body that may foreseeably require final action or a decision by the body constitute legal action and must be conducted in a public meeting. Any doubt about foreseeability should be resolved in favor of compliance with OML requirements.

Ariz. Atty. Genl.

# Discussions and Deliberations Defined

Discussions or consultations between fewer than a majority, when done to circumvent the law, also violate the law.

If a quorum of the body is engaged in discussions, the discussion is subject to the law, regardless of the label given to the gathering such as “work” or “study” session or “social”.

# Notice of Meetings



**Attention, public!**

The  
Instructional  
Minutes  
Committee  
will meet on ...

- Proper and timely (24 hour) notice **MUST** be given
- Notice must include an agenda or info on how to obtain an agenda
- Agenda must list the specific matters to be discussed, considered or decided
- Only matters on agenda may be discussed, considered, or decided



# Special Agenda Issues



- **Emergency meetings can be held and notice posted 24 hours afterward**
- **E-session agenda descriptions may be general so as not to defeat the purpose of holding the E-session**
- **Superintendent or Board President may summarize current events if summary is listed**
- **Emergency matters not on agenda can be addressed and decided provided an explanation exists and is publicly made at that time and in the minutes**



# Requirements for Minutes

- **Required for all public bodies, except advisory and subcommittees. Minutes must include:**
- *Date, time, place of meeting*
- *Members present and absent; general description of the matters considered*
- *Accurate description of all legal actions proposed, discussed or taken and the name of the member who proposed the action*
- *Names of persons who addressed the Board with reference to the legal action about which they addressed the Board*
- **Minutes must be open to the public**



# Call to the Audience

- **Specifically permitted by the law**
- **Subject to reasonable time, place and manner restrictions**
- **May address issues within the Body's jurisdiction**
  - **Allows public to address body on issues within its jurisdiction**
  - **Body may respond to criticism, may ask staff to review matter, or may ask that item be put on future agenda**
  - **Body may not discuss or take legal action on matters raised during an open call to the audience unless it is on the agenda**



# Executive Session



- **Limited exceptions from general rule of public discussion and action:**
- **Discussion or consideration of employment matters: hiring, firing, evaluation, salaries, discipline, etc. Requires notice to affected employee(s)**
- **Discussion or consideration of confidential records or testimony**
- **Discussion or consultation with attorneys of the district for legal advice**
- **Discussion or consultation with attorneys of the district regarding the district's position in contract negotiations, pending or contemplated litigation, or settlement negotiations to avoid litigation.**
- **Discussions or consultations with district representatives in employee salary and benefits compensation negotiations**
- **Discussions or consultations with district representatives in order to instruct the representatives regarding negotiations for the purchase, sale or lease of real property**





# Violations of the OML



- **Legal action taken in violation of OML is null and void**
- **Body may ratify legal action taken in violation to cure by following specific procedures**
- **Violations are investigated by the Attorney General or the County Attorney**
- **In a civil action, a party who violates the law is subject to a civil penalty of up to \$500 per violation and payment of attorney fees**
- **A court may also remove from office a public official who violates the law with intent to deprive the public of information**