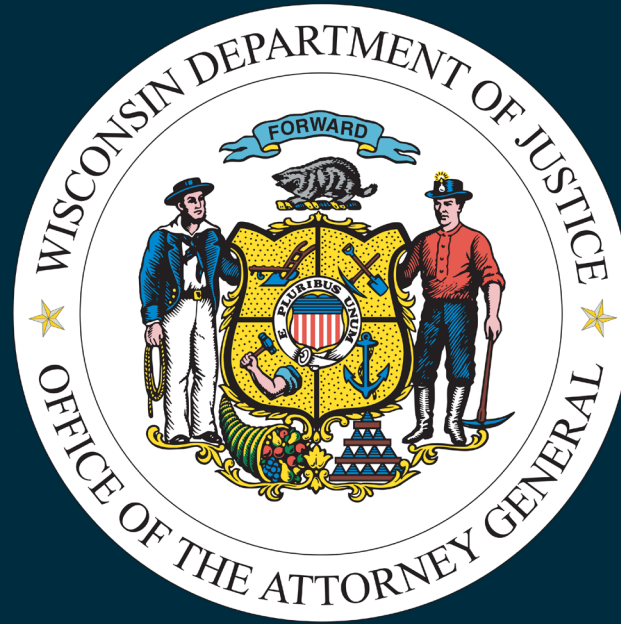




Wisconsin Department of Justice Office of Open Government



Open Meetings Law Basics

Wisconsin Department of Justice
Human Trafficking Council Meeting
March 24, 2026



Public Policy

- “In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that **the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.**”



— Wis. Stat. § 19.81(1)



Essentials

- Generally, the open meetings law requires that all meetings of governmental bodies:
 - must be preceded by **public notice**; and
 - must be **publicly held** in a place that is **reasonably accessible** and **open** at all times to all members of the public;
 - except in limited situations in which a **closed session** is specifically authorized.



GOVERNMENTAL BODIES



Governmental Body

- “‘Governmental body’ means a state or local agency, board, commission, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order” Wis. Stat. § 19.82(1).
- Translation:
 - Any kind of **collective governmental entity** (state or local level).
 - **Created by** constitution, statute, ordinance, rule or order.
 - **Without regard to what that entity is called** (i.e., a board, commission, committee, council, etc.).
- **Includes purely advisory bodies**, governmental corporations, quasi-governmental corporations, and formally constituted **subunits**
- Generally, a governmental body does not include a group of administrative staff of a government agency.
 - Highly fact-specific issue.



Governmental Bodies: Creation

- “[C]reated by constitution, statute ordinance, rule or order”
 - Refers not to the kind of power wielded by a governmental body, but rather to how the body is created.
- How to determine whether a body is created by order?
 - An order can include **any directive** — whether formal or informal — that creates a body and assigns it some governmental responsibilities. See 78 Op. Att’y Gen. 67 (1989).
 - Such a directive may be issued by any governmental official or entity that has the power to delegate the governmental responsibilities in question.
 - **Note:** This is a very fact-specific standard, so there are no bright-line rules.

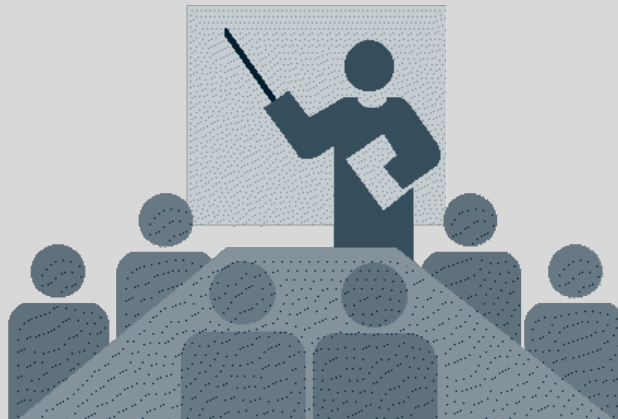


MEETINGS



Meeting

- “‘Meeting’ means the **convening** of members of a governmental body for the **purpose** of exercising the responsibilities, authority, power or duties delegated to or vested in the body.” Wis. Stat. § 19.82(1).
 - Not limited to face-to-face gatherings or physical presence together.
 - Examples: telephone calls, emails, virtual meetings, other electronic forms of communication



Meetings: The *Showers* Test

- The Wisconsin Supreme Court established a two-part test. *State ex rel. Newspapers v. Showers*, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).
 - A meeting occurs whenever:
 - **Purpose** requirement:
 - Members convene for the purpose of conducting governmental business
 - **Numbers** requirement:
 - The number of members present is sufficient to determine the body's course of action
 - Includes **negative quorums**



Meetings: “Convening” of Members

- Members must convene for there to be a meeting
- Not limited to face-to-face gatherings or physical presence together
- Includes situations in which members are able to effectively communicate with each other and exercise the body’s authority
- If members communicate without physically gathering together, the key question is:
 - **To what extent do their communications resemble a face-to-face exchange?**



Meetings: Serial or “Walking” Quorum

- “Walking” Quorum: A meeting resulting from a series of gatherings among body members
- Elements of a “walking” quorum:
 - A series of gatherings among groups of members
 - Each smaller in size than a quorum
 - Agreement to act uniformly
 - In sufficient number to control the body
- The “walking” quorum concept is intended to prevent circumvention of the law through the use of an agent or surrogate to obtain collective agreements of members outside a public meeting.
- **Practical Tips:**
 - “Walking” quorum issues are complex and fact-specific
 - Consult with your legal counsel



NOTICE



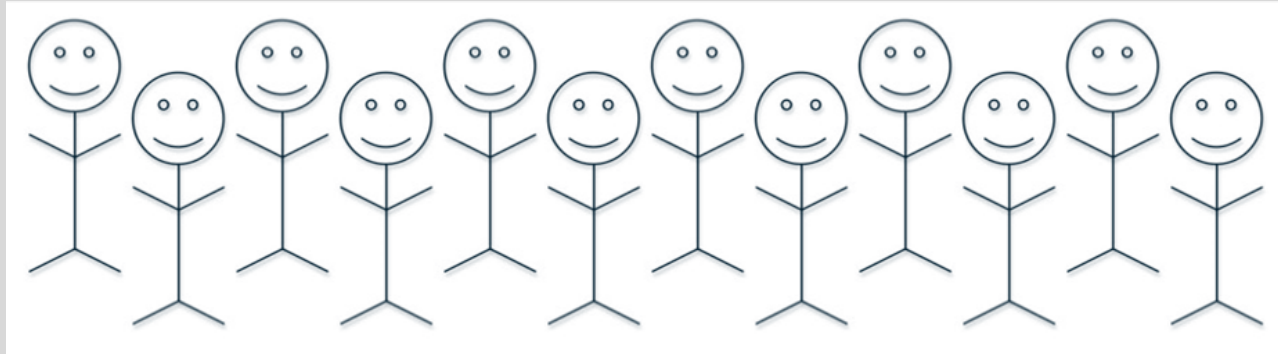
General Notice Requirement

- “Every meeting of a governmental body shall be preceded by public notice”
Wis. Stat. § 19.83(1).
- Notice must be communicated to:
 - The **public**
 - **News media** that have filed a **written request** for notice
 - The **official newspaper** for the community in question
 - If none, then a news medium likely to give notice in the area
- Presiding officer is legally responsible for ensuring notice requirements are met
 - Tasks may be delegated but presiding officer liable for any violations



Manner of Notice to the Public

- Notice to the public **must** be made using one of the following methods:
 - **Posting** in at least **3 public places** likely to give notice to persons affected
 - **Posting** in at least **1 public place** and on the body's **Internet site**
 - **Paid publication** in news medium likely to give notice to persons affected



Timing and Content of Notice

- “Every meeting of a governmental body shall be preceded by public notice”
Wis. Stat. § 19.83(1).
- Notice must be communicated **at least 24 hours before** the meeting to:
 - The **public, news media** that have filed a **written request** for notice, and the **official newspaper** for the community in question
- The meeting notice must reasonably inform the public of the **time, date, place,** and **subject matter** of the meeting.

NOTICE



OPEN SESSIONS



Open Session Requirements

- “[A]ll meetings of all state and local governmental bodies shall be **publicly held in places reasonably accessible** to members of the public and **shall be open** to all citizens at all times **unless otherwise expressly provided by law.**” Wis. Stat. § 19.81(2).
- “‘Open session’ means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times” Wis. Stat. § 19.82(3).



Open Sessions: Citizen Participation

- The open meeting law ensures the right to **attend and observe** open session meetings
- The law does **not** require a body to allow the public to speak or actively participate
- However, the law **permits** a portion of an open meeting to be set aside as a **public comment period**
 - Public comment periods are **not** required
 - Such a period must be included on the meeting notice
- During a public comment period, a body:
 - may **receive information** from the public and
 - may **discuss** any subject raised by the public but
 - may **not** take formal action



Open Sessions: Record Keeping

- All motions and roll call votes must be recorded and preserved
 - Law does not specify a timeframe in which such records must be created.
 - However, it is advisable that motions and roll call votes should be recorded at the time of the meeting or as soon thereafter as practicable
- Voting records must be open to public inspection to the extent required under the public records law
- The open meetings law does not itself require bodies to keep formal minutes of meetings
 - However, minutes are often required by **other statutes** for certain types of bodies

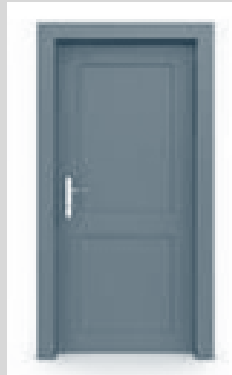


CLOSED SESSIONS



Closed Sessions: Required Procedure

- Every meeting must begin in open session
- To go into closed session, a motion must be duly made and carried in open session
- The vote of each member must be recorded
- Before a vote to go into closed session, the presiding officer **must** announce:
 - The **statutory exemption(s)** authorizing the closed session and
 - The **nature of the business** to be considered
- The specific subjects for which closed sessions are authorized (exemptions) are set out in Wis. Stat. § 19.85(1).



QUESTIONS?



Further Information

- Download **DOJ Compliance Guides** and other resources at <https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>
- Contact the Office of Open Government:
 - Location: AG's Capitol Office, 114 East
 - Main Tel: (608) 267-2220
 - OOG Email: opengov@wisdoj.gov
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