



OPEN MEETINGS ACT PRIMER

What is the Alabama Open Meetings Act?

The Alabama Open Meetings Act can be found in sections 36-25A-1 through 36-25A-11 of the Code of Alabama, 1975. The purpose of the Act is to ensure that the deliberative process of governmental bodies is open and accessible to the public.

Exceptions to the Open Meetings Act

State law provides that governmental bodies may meet in non-public executive sessions for certain specified purposes, though they should be the exception rather than the rule.

These exceptions include the (1) discussion of the job performance of some public employees, (2) to consider disciplinary actions, (3) to discuss pending legislation, (4) discussion related to security plans and procedures, (5) to protect the identity of undercover law enforcement officials and informants, (6) to consider the purchase, sale, exchange, lease, or market value of real property, (7) to discuss preliminary negotiations involving competitive matters of trade and commerce, (8) labor negotiations, and (9) to deliberate and discuss evidence or testimony presented during a public or contested case hearing.

Public notice of executive sessions is not required under the Open Meetings Act.

For the definitions of the Open Meetings Act, the Legislature, legislative parties, caucuses, and coalitions, appellate or trial courts, and voluntary membership organizations are not considered to be governmental bodies.

Why does the Open Meetings Act matter for oversight?

According to the Open Meetings Act, “it is the policy of this state that the deliberative process of governmental bodies shall be open to the public during meetings.” “All meetings of a governmental body shall be open to the public and no meetings of a governmental body may be held without providing notice.”

This recognizes the fact that Alabamians have a statutory right and duty to conduct oversight of governmental officials and bodies. It provides citizens with an opportunity to collect information about the activities of state and local governments and make informed decisions based on those observations.

When is the Open Meetings Act triggered?

Unless otherwise specified by law, any governmental body subject to the Open Meetings Act is required to provide public notice of all meetings at least seven days in advance.

Government bodies with statewide jurisdiction must submit hearing notices to the Secretary of State who is then required to post the meeting notice on the internet at least seven days prior to the day of the meeting. Further, the Secretary of State must also send e-mail notification to anyone registered to receive notification of meetings.

Municipal government bodies are required to post notice of each meeting on a bulletin board at a place of public convenience in the city hall.

Local school boards must post notice of each meeting on a bulletin board of public convenience in the central administrative office of the board.

As practicable, a government body that does not have statewide jurisdiction shall also provide direct meeting notification to any member of the public or news media who has registered to receive public notification of meetings.

A 2022 amendment to the Open Meetings Act allows members of governmental bodies to participate in meetings virtually, so long as at least three members, or a majority of a quorum of members, whichever is less, are physically present at the meeting location.

What are my rights under the Open Meetings Act?

Citizens have the right to receive at least seven days’ notice of a public meeting of a governmental body. Meetings must be conducted in an easily accessible public place so that constituents, members of the media, persons interested in the activities of the governmental body, and citizens of Alabama can attend and observe if desired.

While the Open Meetings Act gives the public the right to attend governmental meetings, it does not necessarily give them the right to be heard at those meetings. It is up to the presiding body to determine whether public comments will be allowed or

whether a public hearing with an opportunity for an open comment period will be held. In some cases, such as school board budget hearings, public comments are required to be heard.

What happens if the Open Meetings Act is violated?

Enforcement of the Open Meetings Act may be sought by civil action brought in the county where the governmental body's primary office is located by any media organization, any Alabama citizen impacted by the alleged violation to an extent which is greater than the impact on the public at large, the Attorney General, or the district attorney for the circuit in which the governmental body is located.

Members of a governmental body who are named as a defendant in a complaint are required to serve an initial response to the complaint within seven business days of personal service of the complaint. A preliminary hearing on the complaint must be held no later than 10 business days after the date of the filing of the defendant or defendants' initial response to the complaint or, if no response is filed, no later than 17 business days after the filing of the complaint.

A final order issued against a defendant shall state specifically upon which claim or the ruling is based. For each meeting proven to be held in violation of the Open Meetings Act, the court shall impose a civil penalty payable to the plaintiff(s). The maximum penalty for each meeting shall be \$1,000 or one half of the defendant's monthly salary for service on the governmental body, whichever is less. Regarding claims related to improper discussions during executive sessions, monetary penalties may only be assessed against defendant members of a governmental body who voted to go into an executive session and who remained in the executive session during a discussion. Penalties imposed against a member of a governmental body found to have acted in violation of this chapter shall not be paid by nor reimbursed to the member by the governmental body he or she serves.

Where can I learn more?

The Alabama Secretary of State hosts a website to post notices of public meetings as well as the ability for citizens to sign up for direct e-mail notifications.

To view current notifications or sign up for specific meeting alerts go to: <https://www.openmeetings.alabama.gov/generalpublic/publicdefault.aspx>

