



INSTITUTE FOR REFORMING GOVERNMENT CENTER FOR INVESTIGATIVE OVERSIGHT OPEN MEETINGS PRIMER

What is the Open Meetings Law?

The Open Meetings Law, found at Wis. Stat. §§ 19.81–.98, is a set of statutes providing generally that “all 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.”ⁱ

Why does the Open Meetings Law matter for oversight?

The Open Meetings Law itself recognizes that because “a representative government of the American type is dependent upon an informed electorate,” “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.”ⁱⁱ

This is essentially an acknowledgement that Wisconsinites have the right and the duty to conduct oversight of government officials. Just as the Wisconsin Legislature has a “responsibility to remain fully informed about the world around them so that they may recognize when to make, amend, or repeal a law,”ⁱⁱⁱ citizens of the state must collect information about the activities of state and local government employees so that they can make good decisions about whether change is needed.

The Open Meetings Law is a powerful tool available to all Wisconsinites to help them exercise this oversight function. In a nutshell, it guarantees as a default rule (subject to exceptions) that the people of the state have access to government meetings.

When is the Open Meetings Law triggered?

The Open Meetings Law applies to (1) “meetings” of (2) “governmental bodies.”^{iv}

- A “governmental body” includes a (i) “state or local agency, board, commission, committee, council, department or public body corporate and politic” that is (ii) “created by constitution, statute, ordinance, rule or order,” as well as its “formally constituted subunit[s].”^v
 - TIP: Oversight of larger entities, like common councils or school boards, is important, but don’t forget that smaller sub-committees created to advise these groups—curriculum committees, for example—can also be independently subject to the Open Meetings law.^{vi}
- A “meeting” is “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.” It occurs when: (i) there is a “purpose to engage in governmental business, be it discussion, decision or information gathering”; and (ii) “the number of members present [is] sufficient to determine the parent body’s course of action regarding the proposal discussed.”^{vii}
- TIP: “If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.”^{viii}

What are my rights under the Open Meetings Law?

Where the Open Meetings Law is triggered, several requirements must be met. The most important of these requirements can be remembered with a simple mnemonic device. Meetings should follow 4 Ps:

1. **Posted.** Public notice of meetings must be posted at least 24 hours in advance, or at least 2 hours in advance if more notice is impossible or impractical.^{ix} The notice must contain the time, date, place and subject matter of the meeting.
2. **Public.** Meetings must be held in “open session,” meaning “in a place reasonably accessible to members of the public and open to all citizens at all times.”^x Governmental bodies can convene in closed session on motion for a handful of limited exceptions, like conferring with legal counsel on litigation.^{xi}



3. **Preservable.** Governmental bodies must make a “reasonable effort to accommodate any person desiring to record, film or photograph the meeting.” But those recording cannot do so in a way that interferes with the meeting or the rights of those in attendance.^{xii}
4. **Published.** Motions and roll call votes must be recorded and are open to public inspection as described in the public records law.^{xiii} Any member of the governmental body can also require that “a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.”^{xiv}
 - TIP: Another way to consider the guarantees of the Open Meetings Law is that it regulates each meeting’s past, present, and future. Notice informs the public that a meeting will take place in the future. The requirement that meetings occur in open session allows the public to witness the meeting in the present. Allowing the public to record meetings and obliging governmental bodies themselves to record certain aspects of meetings ensures the public can determine what occurred at past meetings.

What happens if the Open Meetings Law is violated?

If the Open Meetings Law is violated, a fifth P comes into play:

5. **Prosecutable.** “Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates [the Open Meetings Law] by some act or omission shall forfeit without reimbursement not less than \$25 nor more than \$300 for each such violation.” Actions taken at meetings of governmental bodies held in violation of the Open Meetings Law are potentially voidable. Enforcement actions may be brought by the Attorney General or, “upon the verified complaint of any person,” by the district attorney of the county where the violation occurred. In the latter case, if the district attorney refuses to act within 20 days of receiving a person’s verified complaint, that person can file the enforcement action on behalf of the state.^{xv}
 - TIP: A court “may award actual and necessary costs of prosecution, including reasonable attorney fees,” to a private citizen who prevails in this type of action.



Where can I learn more?

While the Open Meetings Law's core provisions are straightforward, it contains many exceptions and application of the law to a specific set of facts can prove difficult. The Wisconsin Department of Justice publishes a comprehensive Open Meetings Law Compliance Guide that discusses the Open Meetings Law in greater detail.^{xvi}

Note that this primer is for general informational purposes only, does not constitute legal advice, and is not intended to create an attorney-client relationship. If you're faced with a potential Open Meetings Law violation, you should consult with an attorney to obtain legal advice as to your particular situation.

Learn more and connect with us at:

<https://reforminggovernment.org/center-for-investigative-oversight/>.

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ⁱ Wis. Stat. § 19.81(2)

ⁱⁱ Wis. Stat. § 19.81(1)

ⁱⁱⁱ The Honorable Daniel Kelly, *The Lawmaker's Manual for Legislative Oversight* at 1, Institute for Reforming Government (2021)

^{iv} Wis. Stat. § 19.83

^v Wis. Stat. § 19.82(1)

^{vi} See, e.g., *State ex rel. Krueger v. Appleton Area School District Board of Education*, 2017 WI 70, 376 Wis. 2d 239, 898 N.W.2d 35

^{vii} Wis. Stat. § 19.82(2); *State ex rel. Newspapers, Inc. v. Showers*, 135 Wis. 2d 77, 102, 398 N.W.2d 154 (1987)

^{viii} Wis. Stat. § 19.82(2)

^{ix} Wis. Stat. § 19.83-.84

^x Wis. Stat. § 19.82(3), .83(1)

^{xi} Wis. Stat. § 19.85(1)

^{xii} Wis. Stat. § 19.90

^{xiii} Wis. Stat. § 19.88(3)

^{xiv} Wis. Stat. § 19.88(2)

^{xv} Wis. Stat. § 19.96-.97

^{xvi} See *Wisconsin Open Meetings Law Compliance Guide*, Wisconsin Department of Justice (May 2019), <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/OML-GUIDE.pdf>

