Open Public Meeting Act Requirements

OVERVIEW

Washington State University complies with the Open Public Meetings Act (OPMA), which plays an important role in ensuring government transparency.

The OPMA requires all meetings of governing bodies of a public agency, and meetings of committees of governing bodies, to be open and public with certain limited exceptions. (*RCW* 42.30) The University is considered a public agency and is subject to the OPMA.

Under the OPMA, no governing body or its committees may take action except in an open public meeting or executive session conducted in accordance with the statute. "Action" is broadly defined and includes:

- Receipt of public testimony;
- Deliberations;
- Discussions;
- Considerations;
- Reviews; and
- Evaluations; as well as
- Final actions, such as voting on motions and resolutions.

Action taken at a meeting that fails to comply with the OPMA may be declared null and void. (*RCW* 42.30.060)

This policy identifies the University bodies that are subject to the OPMA and outlines the steps that such bodies must take in order to comply with the OPMA. In the event of a conflict between this policy and the OPMA, the OPMA takes precedence.

In the interest of transparency, University bodies should consider holding open meetings, when appropriate, even when not required by law.

**BODIES SUBJECT TO OPMA**

A University body is subject to OPMA requirements if the body is:

- A governing body of either the University or of a "subagency" of the University; or
- A committee established by the governing body that "acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." Committees serving only an advisory function are not subject to OPMA requirements. In addition, University committees established by an individual are not committees of a governing body.
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**BODIES SUBJECT TO OPMA (cont.)**

Other University bodies may be required under a specific state or federal law or regulation to hold open meetings, if those meetings may result in final University decisions. In some cases, specific statutory requirements may differ from OPMA requirements and will take precedence.

Examples of University bodies subject to open meetings requirements include:

- Board of Regents
- Associated Students of Washington State University
- Graduate and Professional Student Association
- Faculty Senate
- Institutional Animal Care and Use Committee
- Services and Activities Fees Committees
- Technology Fee Committee

**EXECUTIVE (CLOSED) SESSIONS**

**Purposes for Executive Sessions**

The statute lists permissible reasons for executive sessions. *(RCW 42.30.110)* These include, but are not limited to, the following:

- To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration is likely to cause increased price.
- To consider the minimum price at which real estate is to be offered for sale or lease when public knowledge regarding such consideration is likely to cause decreased price.

However, final action selling or leasing public property must be taken in a meeting open to the public.

- To review negotiations on the performance of contracts when public knowledge regarding such consideration is likely to increase cost.
- To receive and evaluate complaints or charges brought against a public officer or employee.

However, the officer or employee may request a hearing or meeting open to the public be conducted to receive and evaluate the complaints or charges.
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Purposes for Executive Sessions (cont.)

- To evaluate the qualifications of an applicant for public employment or review the performance of a public employee. However, discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency must occur in a meeting open to the public. *(RCW 42.30.140(4))* Also, when a governing body elects to take final action on any of the following employment issues, that action must be taken in a meeting open to the public:
  - Hiring;
  - Setting the salary of an individual employee;
  - Setting the salary of all employees; or
  - Discharging or disciplining an employee.
- To discuss litigation or potential litigation with legal counsel representing the University if:
  - The University is, or is likely to become, a party to the litigation; and
  - Public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the University.

Procedure for Executive Sessions

Prior to any executive session, the presiding officer must publicly announce the purpose of the session and the time when the executive session will be concluded. This announcement may be generic in nature, such as, "We are now going into executive session to evaluate the performance of a public employee and will reconvene in open session at 7:30 P.M." If needed, the executive session may be extended by an additional announcement.

Even if the meeting is devoted entirely to such matters, it must:

- Have the required notices filed;
- Be open to the public; and then
- Go into executive session.

When the governing body or committee comes out of executive session, no announcement need be made regarding what has occurred during the executive session. However, final actions relating to the matters discussed in executive session must be taken in open session.
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PROCEDURES FOR FILING MEETING NOTICES

Regular Meetings

Filing requirements for both regular and special meetings are described below.

Regular meetings are recurring meetings held in accordance with a periodic schedule filed with the Washington State Office of the Code Reviser.

To ensure compliance with the filing requirement, governing bodies and applicable committees should adopt a regular meeting schedule for the upcoming calendar year in the fall. They should then file the schedule with the Code Reviser no later than December 15. The Code Reviser then publishes the schedule in the Washington State Register. (*RCW 42.30.075*)

Alternatively, a governing body or committee may provide a copy of the schedule to the Office of Procedures, Records, and Forms (PR&F) no later than November 30. PR&F files any applicable notification annually with the Washington State Code Reviser's Office.

The regular meeting schedule should contain the following:

- Name of the governing body or committee;
- Dates and times the regular meetings are scheduled; and
- Meeting place(s) for the regular meetings.

Changes to a previously established regular meeting schedule must be filed with the Code Reviser for publication at least 20 days prior to the rescheduled meeting date. PR&F may assist with this process.

A regular meeting falling on a holiday may be postponed to the next University business day. Postponement of a regular meeting, either for a holiday or some other reason, must be posted at the door of the meeting room ahead of the usual scheduled date.

If the body decides to hold a regular meeting earlier than the usual scheduled date, the meeting should be treated as a special meeting. The group may also use a special meeting notice to cancel a regular meeting and set a new one.

The agenda of each regular meeting must be made available online no later than 24 hours in advance of the published start time of the meeting. (*RCW 42.30.077*)
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Special Meetings

Special meetings are all meetings other than regular meetings. Notice of a special meeting must be delivered to the members of the body and any news media that have filed a written request for such notices at least 24 hours prior to the meeting. In addition, the notice must be displayed on the body's website and prominently displayed at the principal location or meeting site (if different).

Special meeting notices must include:

- Name of the governing body or committee;
- Date and time the special meeting is scheduled;
- Meeting location of the special meeting; and
- Complete agenda.

No final action may be taken at a special meeting on any matter outside the agenda. Governing bodies and/or committees may wish to make agenda items broad in nature to assure that all issues can be discussed during the meeting (e.g., Agenda item: Update on status of ongoing projects).

Emergencies

If a special meeting is called to deal with an emergency involving injury or damage (or the likelihood of injury or damage) to persons or property, notice is not required if it is impractical and would increase the likelihood of injury or damage.

MINUTES

Governing bodies and governing body committees must take notes at all open meetings, both regular and special, except for executive sessions. (RCW 42.30.035) The notes are to then be approved as minutes at the following meeting and retained in accordance with University records retention requirements. See BPPM 90.01.

CONDUCT OF OPEN MEETINGS

Members of the public have a right to be present at the meeting of a governing body or its committees but not to speak, unless specifically authorized by statute (for example, public comment period pursuant to RCW 28B.30.120). They may attend an open meeting without being required to give names, complete a questionnaire, or provide other information.

If a person or group disrupts a meeting, and removal of the person or group is not feasible, the body may order the room cleared or adjourn and then reconvene at another location. If this occurs, representatives of the press must be permitted unless they participated in the disruption, and only items on the agenda may be subject to final disposition. (RCW 42.30.050)
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REQUIRED TRAINING

Every member of the governing body of a public agency must complete training on the requirements of OPMA no later than 90 days after the date the member assumes duties as a public official. \((RCW\ 42.30.205)\) Refresher training is required at intervals of no more than every four years.

The Attorney General's Office may provide training. In addition, online OPMA training is available at the Washington State Office of the Attorney General's Open Government Training website:

\(\text{atg.wa.gov/open-government-training}\)

CODE REVISER'S OFFICE

E-Filing Notices

For authorization to file notices electronically with the Washington State Code Reviser's Office and for e-filing procedures, see:

\(\text{leg.wa.gov/CodeReviser/Pages/E-Filing.aspx}\)

Contact Information

For state Code Reviser's Office contact information, see:

\(\text{leg.wa.gov/CodeReviser/Pages/ContactEditor.aspx}\)

RECORDS REQUESTS

Refer any requests from the public for meeting minutes, notices, agendas, or attachments to agendas to the Public Records Office; email \(\text{wsu.pubrecords@wsu.edu}\); telephone 509-335-3928. The Public Records Office ensures that such requests are processed according to the requirements of the Public Records Act \((RCW\ 42.56)\). See \(BPPM\ 90.05\).