

S.55 (An act relating to authorizing public bodies to meet electronically under Vermont's Open Meeting Law)

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1 V.S.A. § 312 (RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES)

Vermont's Open Meeting Law requires all public bodies (defined in 1 V.S.A. § 310) to take written, textual minutes of all meetings *and* for their minutes be (a) kept by the clerk or secretary of the public body and (b) available for inspection or copying. The latter reaffirms the applicability of the Vermont Public Records Act and related records management requirements as the minutes are created in the course of the public body's business.

Title 1 : General Provisions

Chapter 005 : Common Law; General Rights

Subchapter 003 : Access to Public Records

(Cite as: 1 V.S.A. § 317a)

§ 317a. Management of public records

(a)(1) Public records in general and archival records in particular should be systematically managed to provide ready access to vital information, to promote the efficient and economical operation of government, and to preserve their legal, administrative, and informational value.

(2) Any public agency may seek services from the Statewide Records and Information Management Program, as defined in 3 V.S.A. § 117(b) and administered by the Vermont State Archives and Records Administration, to establish, maintain, and implement an active and continuing internal records and information management program for the agency.

(b) A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule, as defined in 3 V.S.A. § 117(a)(6), that has been approved by the State Archivist. (Added 2007, No. 96 (Adj. Sess.), § 1; amended 2017, No. 100 (Adj. Sess.), § 2.)

Meeting Minutes

For most public bodies, written, textual minutes are the only records required to be created to document what was said and done at their meetings and the statute is explicit in what is required

to be documented in meeting minutes. Vermont's Open Meeting Law implies permanent preservation and access for minutes and the Vermont State Archives and Records Administration (VSARA), through its authorities in the Vermont Public Records Act (1 V.S.A. § 317a), affirms this expectation in record schedules issued to public bodies by (a) requiring minutes to be maintained and preserved as permanent (archival) records of the public body and (b) not authorizing their destruction.

Public Bodies with Rulemaking Authority

In addition to written, textual minutes, public bodies with rulemaking authority have a requirement in the Open Meeting Law to electronically record any public hearings that are held for public comment on a proposed rule pursuant to [3 V.S.A. § 840 \(Public Hearing and Comment\)](#). After adopting a rule, the public body is also required under the Administrative Procedure Act to maintain the recording and all other records created and received as part of the rulemaking process for a minimum of one year ([3 V.S.A. § 843](#)).

The above is an example where destruction is implied as authorized by law and VSARA affirms this expectation in record schedules issued to public bodies holding public hearings for public comment on a proposed rule by (1) requiring these recordings to be maintained as temporary (legal) records of the public body and (2) authorizing destruction after the legal requirement of one (1) year has been met.

The Proposed Rules Postings Portal of the Vermont Secretary of State shows a small number of public bodies proposing rules in recent years and not all proposed rules result in a public hearing.

Public Bodies and State of Emergency

In addition to written, textual minutes, the legislative body of each municipality and each school board are required to record any meetings held pursuant to 1 V.S.A. § 312a. In record schedules issued to public bodies, VSARA requires these recordings to be maintained as temporary (legal) records of the public body and authorizes their destruction after (1) one year.

Recording for Minute Preparation and as Notetaking

Public bodies have long-used recording (audio and audiovisual) to assist in preparing the formal written, textual minutes and as a form of notetaking. These recordings are generally only needed for a limited period of time and in record schedules issued to public bodies, VSARA requires these records to be maintained as temporary (administrative) records of the public body and authorizes their destruction when they are no longer needed administratively for reference by the public body.