

OVERVIEW OF VERMONT'S OPEN MEETING LAW

I. Bodies Subject to the OML

- The Vermont Open Meeting Law (OML) (1 V.S.A. §§ 310–314) applies to “public bodies,” which are defined as boards, councils, or commissions of the State or its political sub-divisions, or of any agency, authority, or instrumentality of the State or its political subdivisions, including committees of these bodies.
- The term “public body” does not extend to councils (or similar bodies) established by the Governor for the sole purpose of advising the Governor with respect to policy. § 310(3).
- The OML does not extend to the judicial branch or to the Public Service Board; to the deliberations of a public body in connection with quasi-judicial proceedings; or to proceedings specifically made confidential under state or federal law. § 312(e).

II. What Constitutes a “Meeting” Under the OML?

- The OML applies to a “meeting” of a public body, which is defined as a gathering of a quorum of a public body “for the purpose of discussing the business of the public body or for the purpose of taking action.” § 310(2).
- The OML does not apply to routine day-to-day administrative matters that do not require action by the public body, as long as no money is appropriated, expended, or encumbered; to clerical work or work assignments; or to site inspections to assess damage or to make tax assessments or abatements. § 312(g).

III. What Are the Requirements of the OML?

A. General Rule

- Meetings of a public body must be open to the public, unless authorized to be closed under the provisions governing executive sessions.

B. Notice of Meetings

1. Regular meetings. A public body schedules regular meetings by adopting a resolution, bylaw, ordinance etc. setting the time and place of the meeting. This information must be made available upon request. § 312(c)(1).
2. Special meetings. A public body holding a special meeting must, at least 24 hours before the meeting, publicly announce the time, place, and purpose of the meeting by notifying the body members and the local news media and any other media that has specifically requested notification, and in the case of municipal public bodies, by posting notice of the meeting in or near the clerk’s office and in two other public places in the municipality. § 312(c)(2); § 310(4); § 312(c)(5).
3. Emergency meetings. An emergency meeting may be held without public announcement as long as some public notice is given as soon as possible before the meeting. § 312(c)(3).

C. Meeting Agenda

An agenda for a regular or special meeting must be made available “prior to the meeting upon specific request.” § 312(d).

D. Meeting Minutes

Minutes must at least include the names of all members of the public body present at the meeting and other active participants; all motions, proposals, and resolutions made, and their dispositions; and the results of any votes taken. Minutes are public records, which must be available for public inspection within five days after the meeting. § 312(b).

E. Public’s Right to Be Heard

At an open meeting, the public must be given a reasonable opportunity to comment on matters considered by the public body, subject to reasonable rules set by the chair. § 312(h).

F. What are the Rules Governing Executive Sessions?

- A public body may only go into executive session, i.e. exclude the public from a meeting, upon a majority vote of the body if it is a municipal body, or upon a 2/3 vote of a state body, on a motion made during an open meeting that indicates the reason for going into executive session. § 313. The only permissible reasons for going into executive session are to consider one or more of the following:
 - (1) Contracts, labor relations agreements with employees, arbitration, mediation, grievances, civil actions, or prosecutions by the state, *where premature general public knowledge would clearly place the state, municipality, other public body, or person involved at a substantial disadvantage*;
 - (2) The negotiating or securing of real estate purchase options;
 - (3) The appointment or employment or evaluation of a public officer or employee;
 - (4) A disciplinary or dismissal action against a public officer or employee;
 - (5) A clear and imminent peril to the public safety;
 - (6) Discussion or consideration of records exempt from the Public Records Act;¹
 - (7) The academic records or suspension or discipline of students;
 - (8) Testimony from a person in a parole proceeding conducted by the parole board if public disclosure of the identity of the person could result in physical or other harm to the person;
 - (9) Information relating to a pharmaceutical rebate or to supplemental rebate agreements.

- No binding action may be made in executive session except to secure real estate options.

¹ Consideration of an exempt record does not itself permit an extension of the executive session to the general subject to which the record pertains.

IV. Enforcement of the Open Meeting Law

- Except for real estate options, no resolution, rule, appointment, or formal action taken by a public body shall be considered binding unless taken or made at an open meeting. § 312(a).
- The Attorney General, and private persons, may seek redress of the Open Meeting Law violations by bringing an action in superior court for injunctive relief or a declaratory judgment.
- A member of a public body who knowingly and intentionally violates the Open Meeting Law “shall be guilty of a misdemeanor and shall be fined not more than \$500.00.”