

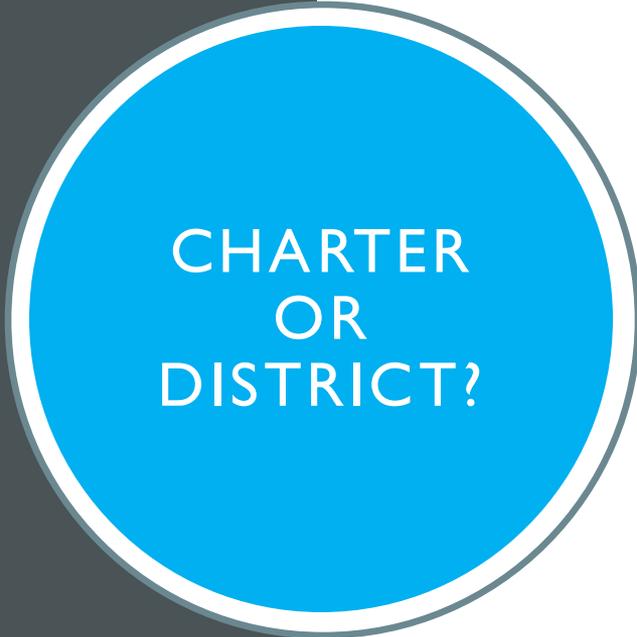
BOARD TRAINING
YORGASON LAW OFFICES

5-15-25



AGENDA

- CHARTER OR DISTRICT
- WHAT LAWS APPLY?
- CODE OF ETHICS
- BOARD DUTIES
- ADMINISTRATOR DUTIES
- QUESTIONS?



CHARTER OR DISTRICT?

- One of the keys to statutory interpretation is the language in the statutes:
 - School districts and charter schools are different
 - Specially chartered district – includes 3-4 school districts, not charter schools
 - Political subdivision – includes school districts, not charter schools
 - Public charter school – includes charter schools, not school districts
 - Public school – includes school districts and charter schools
 - LEA – includes school districts and may include charter schools



CODE OF ETHICS

- CODE OF ETHICS FOR SCHOOL BOARDS (summarized)
- Most school district and charter school boards have adopted this code of ethics as part of their policy manual.
 - Attend all regularly scheduled meetings and be prepared and informed
 - Recognize that board must comply with open meeting laws and can only make decisions at legal meetings
 - Make all decisions based on available facts and independent judgment



CODE OF ETHICS

- **CODE OF ETHICS FOR SCHOOL BOARDS** (continued)
 - Understand the board makes decisions as a team (individual members cannot/should not commit the board – the agency relationship could bind the board)
 - Recognize that decisions are made by majority vote
 - Acknowledge that policy decisions are a primary function of the board
 - Be fair, open and honest – no hidden agendas



CODE OF ETHICS

- CODE OF ETHICS FOR SCHOOL BOARDS (continued)
 - Recognize that the administrator is the board's advisor
 - Understand the chain of command and refer complaints to proper person
 - Keep abreast of important trends, research and practices
 - Respect the right of the public to be informed



CODE OF ETHICS

- OPEN MEETING LAWS
- 74-201. FORMATION OF PUBLIC POLICY AT OPEN MEETINGS.
- The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.



CODE OF ETHICS

- CODE OF ETHICS FOR SCHOOL BOARDS
(continued)
 - Understand that you will receive confidential, unsharable information
 - Give staff proper respect and consideration
 - Present personal criticism of school operations to the board chair or administrator (not staff)
 - Refuse to use board position for personal/family gain or prestige
 - First and greatest concern must be the educational welfare of the students

BOARD AND ADMINISTRATIVE DUTIES

- BOARD DUTIES

- How well are things getting done?
- Governance (big picture)
- Adopt policies (with input from administrator)
- Approve contracts
- Approve the budget
- Hires the administrator

- ADMINISTRATOR DUTIES

- How will things get done?
- Administration (day-to-day)
- Implement policies (provide input on policies)
- Recommend contracts for approval
- Administer the budget
- Advises the board



EFFECTIVE BOARDS

- OPEN MEETINGS LAW GENERALLY
- TYPES OF MEETINGS
- AGENDAS
- MINUTES
- BOARD DUTIES
- ADMINISTRATOR DUTIES
- QUESTIONS?



OPEN MEETING LAWS

Idaho Code §74-201 – Formation of Public Policy at Open Meetings

Idaho Code §74-202 – Open Public Meetings – Definitions

Idaho Code §74-203 – Governing Bodies – Requirements for Open Public Meetings

Idaho Code §74-204 – Notice of Meetings – Agendas

Idaho Code §74-205 – Written Minutes of Meetings

Idaho Code §74-206 – Executive Sessions – When Authorized

Idaho Code §74-206A – Negotiations in Open Session

Idaho Code §74-207 – Open Legislative Meetings Required

Idaho Code §74-208 – Violations



OPEN
MEETING
LAWS

74-201. FORMATION OF PUBLIC POLICY AT OPEN MEETINGS.

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OPEN
MEETING
LAWS

IDAHO CODE §74-206(2) DEFINITIONS

"Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

"Governing body" means the members of any public agency which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

"Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with this chapter.

"Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.



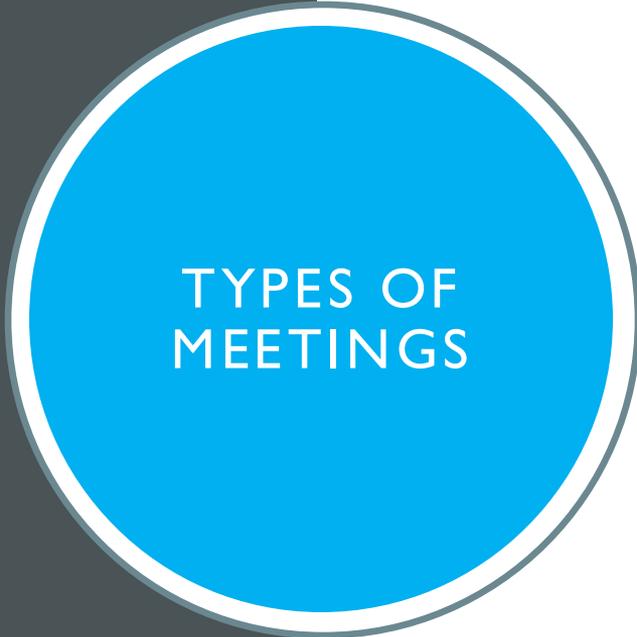
OPEN MEETING LAWS

GOVERNING BODIES -- REQUIREMENT FOR OPEN PUBLIC MEETINGS. 74-203 (1)
Except as provided below, all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

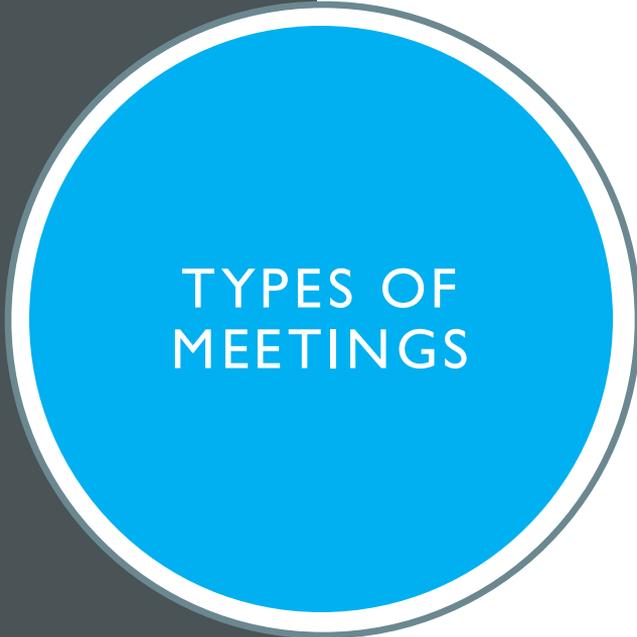
(5) All meetings may be conducted using telecommunications devices which enable all members of a governing body participating in the meeting to communicate with each other. Such devices may include, but are not limited to, telephone or video conferencing devices and similar communications equipment. Participation by a member of the governing body through telecommunications devices shall constitute presence in person by such member at the meeting; provided however, that at least one (1) member of the governing body, or the director of the public agency, or the chief administrative officer of the public agency shall be physically present at the location designated in the meeting notice, as required under section 74-204, Idaho Code, to ensure that the public may attend such meeting in person. The communications among members of a governing body must be audible to the public attending the meeting in person and the members of the governing body.

NO CURRENT COVID EXCEPTIONS



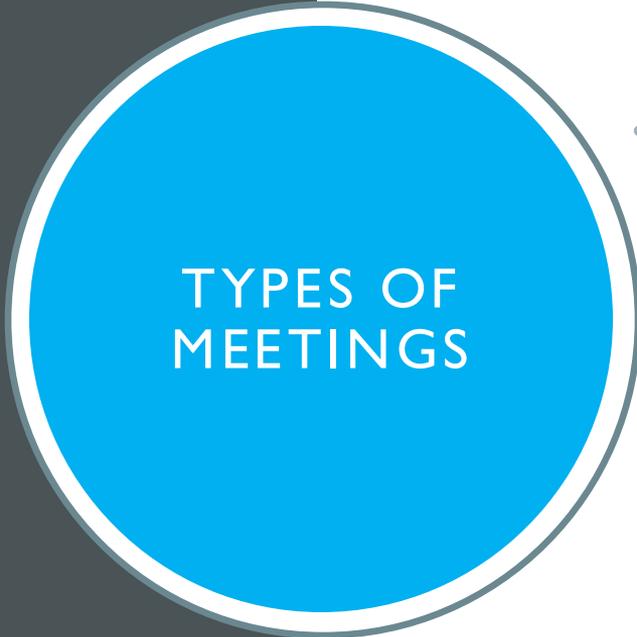
TYPES OF MEETINGS

- QUESTION:
- How many types of meetings are discussed in statute?



TYPES OF MEETINGS

- Definition of a "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.
 - (a) "Regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.
 - (b) "Special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.



TYPES OF MEETINGS

- OTHER MEETINGS NOT DISCUSSED IN STATUTE
 - Work sessions
 - Town halls
 - Executive sessions
 - Public hearings
- (All are part of a regular or special meeting)



NOTICE AND AGENDAS

- Regular meetings. No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule.
- Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists.



NOTICE AND AGENDAS

An agenda shall be required for each meeting. The agenda shall be posted in the same manner as the notice of the meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion. An agenda item that requires a vote shall be identified on the agenda as an "action item" to provide notice that action may be taken on that item. Identifying an item as an action item on the agenda does not require a vote to be taken on that item.

- (a) If an amendment to an agenda is made after an agenda has been posted but forty-eight (48) hours or more prior to the start of a regular meeting, or twenty-four (24) hours or more prior to the start of a special meeting, then the agenda is amended upon the posting of the amended agenda.
- (b) If an amendment to an agenda is proposed after an agenda has been posted and less than forty-eight (48) hours prior to a regular meeting or less than twenty-four (24) hours prior to a special meeting but prior to the start of the meeting, the proposed amended agenda shall be posted but shall not become effective until a motion is made at the meeting and the governing body votes to amend the agenda.
- (c) An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting. Final action may not be taken on an agenda item added after the start of a meeting unless an emergency is declared necessitating action at that meeting. The declaration and justification shall be reflected in the minutes.



NOTICE
AND
AGENDAS

QUESTION:

Who creates the agenda?



MINUTES

(1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

- (a) All members of the governing body present;
- (b) All motions, resolutions, orders, or ordinances proposed and their disposition;
- (c) The results of all votes, and upon the request of a member, the vote of each member, by name.

(2) Minutes pertaining to executive sessions. Minutes pertaining to an executive session shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session.



EXECUTIVE SESSIONS

- (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds ($2/3$) vote of the governing body.
- (4) If the governing board of a public school district, charter district, or public charter school has vacancies such that fewer than two-thirds ($2/3$) of board members have been seated, then the board may enter into executive session on a simple roll call majority vote.



EXECUTIVE SESSIONS

An executive session may be held:

- (a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;
- (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;
- (c) To acquire an interest in real property not owned by a public agency;
- (d) To consider records that are exempt from disclosure as provided in [chapter 1, title 74, Idaho Code](#);
- (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;
- (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;
- (i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement;



EXECUTIVE SESSIONS

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this chapter to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.



VIOLATIONS

74-208.VIOLATIONS. (1) If an action, or any deliberation or decision-making that leads to an action, occurs at any meeting which fails to comply with the provisions of this chapter, such action shall be null and void.

(2) Any member of the governing body governed by the provisions of this chapter, who conducts or participates in a meeting which violates the provisions of this act shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250).

(3) Any member of a governing body who knowingly violates the provisions of this chapter shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500).

(4) Any member of a governing body who knowingly violates any provision of this chapter and who has previously admitted to committing or has been previously determined to have committed a violation pursuant to subsection (3) of this section within the twelve (12) months preceding this subsequent violation shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500).



VIOLATIONS

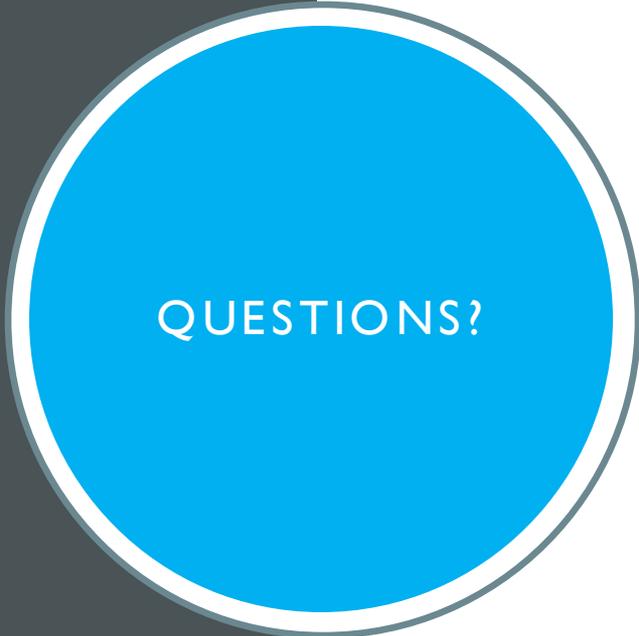
(7) (a) A violation may be cured by a public agency upon:

- (i) The agency's self-recognition of a violation; or
- (ii) Receipt by the secretary or clerk of the public agency of written notice of an alleged violation. A complaint filed and served upon the public agency may be substituted for other forms of written notice. Upon notice of an alleged open meeting violation, the governing body shall have fourteen (14) days to respond publicly and either acknowledge the open meeting violation and state an intent to cure the violation or state that the public agency has determined that no violation has occurred and that no cure is necessary. Failure to respond shall be treated as a denial of any violation for purposes of proceeding with any enforcement action.

(b) Following the public agency's acknowledgment of a violation pursuant to paragraph (a)(i) or (a)(ii) of this subsection, the public agency shall have fourteen (14) days to cure the violation by declaring that all actions taken at or resulting from the meeting in violation of this act void.

(c) All enforcement actions shall be stayed during the response and cure period but may recommence at the discretion of the complainant after the cure period has expired.

(d) A cure as provided in this section shall act as a bar to the imposition of the civil penalty provided in subsection (2) of this section. A cure of a violation as provided in subsection (7)(a)(i) of this section shall act as a bar to the imposition of any civil penalty provided in subsection (4) of this section.



QUESTIONS?

Any questions?

THANK YOU

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