



WISCONSIN'S OPEN MEETINGS LAW AND THE WISCONSIN CONSERVATION CONGRESS

Requirements of the Open Meetings Law

The two most basic requirements of the open meetings law are that a governmental body:

- (1)** give advance public notice of each of its meetings, and
- (2)** conduct all of its business in open session, unless an exemption to the open session requirement applies.

“Every meeting of a governmental body shall be preceded by public notice . . .” --Wis. Stat. §19.83(1)

- Notice must be given at least 24 hours before the meeting.
- Shorter notice may be given only if, for good cause, 24-hour notice is impossible or impractical.
- In no case may less than 2 hours notice be given.

When Does the Open Meetings Law Apply?

- It applies to meetings of governmental bodies.
- The key terms, “governmental body” and “meeting,” are defined in Wis. Stat. § 19.82

- ◎ “**Meeting**’ means the convening of members of a governmental body for the purpose of exercising the responsibilities, power or duties delegated to or vested in the body...”
---Sec. 19.82(1), Wis. Stats.
- ◎ “**Governmental body**’ means a state or local agency, board, commission, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order...” ---Sec. 19.82(1), Wis. Stats.

Advisory Bodies

The definition of “governmental body” includes purely advisory bodies.

---See *State v. Swanson*, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

A governmental body does not have to possess final decision-making power in order to be subject to the open meetings law.



The *Showers* test:

A meeting occurs whenever:

- (1) Members convene for the purpose of conducting governmental business *and*
- (2) The number of members present is sufficient to determine the body's course of action.

The **purpose** requirement

“Conducting governmental business” includes:

- preliminary decisions
- discussion
- information gathering
- interaction among members is not required

---*State ex rel. Badke v. Greendale Village Bd.*, 173 Wis. 2d 553, 572, 494 N.W.2d 408 (1993).

The **numbers** requirement

Members must convene for there to be a meeting.

- Not limited to face-to-face gatherings or physical presence together
- Number of members present be sufficient to determine the governmental body's course of action on the business under consideration

What to watch...

- Continue to refrain from e-mail chat
 - Great way to share information, but not to use for discussion purposes
- Put it on the agenda
 - To take action make sure an item is noted on the agenda
- Recording votes
 - Make sure roll call votes are recorded in the minutes

Walking Quorum



A “walking quorum” is a series of gatherings among separate groups of members of a governmental body, each less than quorum size, who agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum.

Public Participation

- The open meetings law grants citizens the right to attend and observe open session meetings.
- The law does not require a governmental body to allow members of the public to speak or actively participate in the meeting.

Public Participation

- The open meetings law permits a portion of an open meeting to be set aside as a public comment period.
- Public comment periods are not required.
- Such a period must be included on the meeting notice. --- Wis. Stat. §19.83(2) and § 19.84(2)

Enforcement and Penalties

Enforcement:

Both the Attorney General and the district attorneys have authority to enforce the open meetings law.

Wis. Stat. § 19.97(1)

In most cases, enforcement at the local level has the greatest chance of success due to the need for intensive factual investigation, the district attorneys' familiarity with the local rules of procedure and the need to assemble witnesses and material evidence. 65 Op. Att'y Gen. Preface, ii.

Penalties:

Any member of a governmental body who “knowingly” attends a meeting held in violation of the open meetings law, or otherwise violates the law, is subject to a forfeiture of between \$25 and \$300 for each violation.

Wis. Stat. § 19.96