

FAQ: Open Meetings

Contents

- What's the statutory reference?
- What does it mean?
- What groups are covered by the Open Meetings Law?
- What does the law require?
- What needs to be in the meeting notice?
- How far ahead of the meeting does the notice have to be posted?
- Since we always meet monthly at the same day, time, and place can we just post one notice for the year's meetings?
- Do we have to post a notice in three places in the community?
- How about posting notice online?
- What should the minutes include?
- Do all votes have to be recorded or can we have a secret ballot?
- What's considered a meeting?
- Can the board ever meet privately, without the public present?
- It's a small town. If we happen to meet at a community event are we breaking the law?
- Can we talk about library business outside of a board meeting?
- What about email?
- What about allowing public comments at meetings?
- If we're getting together, but it's not really a business meeting, do we have to post a notice?
- Does "open meeting" need we must have the doors to the meeting room standing open?
- We're beginning a building project and will be visiting some nearby libraries. Do we have to post this as a meeting?
- What are the penalties for violating the Open Meetings Law?
- Where can I find more information?

This FAQ discusses the Wisconsin Open Meetings Law in general. A different FAQ specifically discusses closed sessions.

What's the statutory reference?

Sections 19.81 through 19.85 of Wisconsin Statutes.

What does it mean?

It is the state's official policy that citizens' knowledge of their government and what their governmental bodies are doing is vital. For this reason governmental bodies must give prior public notice of their meetings, must allow members of the public and the media to attend, and must keep and make available records of their actions. The law does allow you to exclude media and members of the public when you discuss certain personnel and legal issues.

What groups are covered by the Open Meetings Law?

All governmental bodies are covered by this law. The statutory definition of a "governmental body" includes a "state or local agency, board, commission, committee, council, department or public body

corporate and politic created by constitution, statute, ordinance, rule or order[.]” This definition is broad enough to include virtually any collective governmental entity, regardless of what it is labeled.

The Library Board and any committees established by the board are considered governmental bodies. This is true regardless of the makeup of the committee. A strategic planning or building committee that includes library staff and members of the public as well as trustees is still a committee that falls under this law. Subcommittees also fall under this law.

What does the Open Meetings Law require?

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

1. Hold the meeting publicly in a place reasonably accessible to members of the public and open to all citizens. The facility chosen for the meeting must be sufficient for the number of people reasonably expected to attend.
2. Post advance public notice of each meeting.
3. Conduct all of its business in open session, unless an exemption to the open session requirement applies.
4. Keep and maintain minutes of the meeting.

What needs to be in the meeting notice?

Every public notice of a meeting must give the time, date, place and subject matter of the meeting. The notice should list the subject matter, or agenda items, in enough detail that members of the public and news media will know what is going to be discussed. In general, the more “novel” or non-routine the matter is, or the greater the public interest, the more specific the notice should be. In addition, any anticipated closed session must be listed, citing the statutory reference allowing closure.

How far ahead of the meeting does the notice have to be posted?

Public notice of all library board and library board committee meetings is required at least 24 hours in advance of any meeting, except in cases of emergency, when at least two hours notice is required.

Since we always meet monthly at the same day, time, and place can we just post one notice for the year’s meetings?

No, you must post a separate notice for each meeting.

Do we have to post a notice in three places in the community?

No, this is not required, although it is recommended. The law requires that notice be given to:

1. the public
2. any members of the news media who have submitted a written request for notice
3. your municipality’s official newspaper or, if there is no official newspaper, a news medium likely to give notice in the area.

One way to give notice to the public is by posting the notice in one or more places in the community likely to be seen by the general public, but there is no requirement that notice be posted in a specific number of places.

How about posting notice online?

Posting on the library website and the municipality's meeting calendar is a good idea, but online posting should supplement, rather than replace, posting notices traditionally.

What should the minutes include?

At a minimum the minutes must:

- State the date, time & location of the meeting
- List who was present
- Record all motions, including who made and seconded them
- Record each motion's vote. If a roll-call vote was taken how each member voted must be recorded as well.

Do all votes have to be recorded or can we have a secret ballot?

Although secret ballots are generally prohibited under the Open Meetings Law, a narrow exception allows a governmental body to use secret ballots to elect the body's officers.

What's considered a meeting?

The Wisconsin Supreme Court has held that the definition of a "meeting" applies whenever a gathering of members of a governmental body (in this case the Library Board) satisfies two requirements:

1. There is a purpose to engage in governmental business. This requirement is met when discussion, information gathering or decision-making takes place on a matter within the governmental body's jurisdiction. Whether or not votes are taken is irrelevant; mere discussion or information gathering qualifies.
2. The number of members present is sufficient to determine the governmental body's course of action. The entire board does not have to meet: only enough members to determine the board's course of action. This generally would be one-half of the board's membership, as a majority (half plus one) is usually required for a motion to pass. If, however an issue before the board would require approval of two-thirds of the members, a gathering of as few as one-third of the members may be considered a meeting.

Can the board ever meet privately, without the public present?

Yes, the law allows for public bodies to meet in closed session to discuss certain personnel and legal issues. This is more fully discussed in a different FAQ. Remember, for closed session meetings you must post a meeting notice, keep minutes, and abide by all other requirements of the Open Meetings Law.

It's a small town. If we happen to meet at a community event are we breaking the law?

No. If trustees happen to meet at a community event this would not be automatically considered a meeting. If trustees used that accidental gathering as an opportunity to discuss library business, however, it could be considered a meeting.

Can we talk about library business outside of a board meeting?

Generally, two trustees discussing library business outside of a meeting is not a violation of the law. However, if a library board committee has three members, two trustees would be a quorum.

You should also be careful not to form a "walking quorum". A walking quorum is a series of gatherings or communications among separate groups of members of a governmental body, each less than quorum size, who discuss library business and agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum.

What about email?

Email can be especially problematic. Although two members of a governmental body larger than four members may generally discuss the body's business without violating the open meetings law, features like "forward" and "reply to all" common in email programs deprive a sender of control over the number and identity of the recipients who eventually may have access to the sender's message. Moreover, it is quite possible that, through the use of email, a quorum of a governmental body may receive information on a subject in an almost real-time basis, just as they would receive it in a physical gathering of the members.

What about allowing public comments at meetings?

It is common for public bodies to have a time set aside for members of the public to comment or ask questions. The board should be careful, however, to avoid discussing at length anything brought up in a "public comment" time unless the topic is already listed on the agenda. If something brought up during a public comment time needs more than very cursory discussion it should be placed on the agenda of a future meeting and tabled until that time. Additionally, trustees should not use a public comment time as an opportunity to raise issues not already on the agenda.

If we're getting together, but it's not really a business meeting, do we have to post a notice?

Certainly, if you are attending to library business. Examples of this might be if the library board is attending a meeting of the municipal or county board as a group or if most of the board is attending a workshop or training session. It's probably a good idea to post a notice whenever the board intentionally gets together for any purpose. Some governmental bodies go so far as to post notice for social and ceremonial events, such as a Friends of the Library program or a community parade that all members will be walking in.

Does "Open Meeting" need we must have the doors to the meeting room standing open?

No, this is a common misapprehension. The doors must be unlocked so members of the public can get in. But for practical reasons the doors may have to be closed, for example because of noise in the hallway outside.

We're beginning a building project and will be visiting some nearby libraries. Do we have to post this as a meeting?

Yes, because it is the board, or a board-authorized committee, getting together on library business. If the board is gathering at a central point before beginning the time and place should be stated in the

meeting notice. Then list your itinerary with estimated times of arrival at each library. If you are car-pooling and a quorum of the board will be traveling in the same car you should be careful not to discuss too much in the car or at lunch. There is no need to provide transportation for members of the public.

What are the penalties for violating the Open Meetings Law?

Any trustee who knowingly attends a meeting in violation of the open meetings law may be fined not less than \$25 and as much as \$300 per violation. In addition, a court may void board actions taken in an illegal closed session.

Where can I find more information?

- Your municipal attorney
- Open Meetings Law and Library Board Closed Sessions from the Wisconsin Division for Libraries and Technology: <http://dpi.wi.gov/pld/boards-directors/public-records/open-meetings-law>
- FAQ on open meetings from the Wisconsin Division for Libraries and Technology: http://dpi.wi.gov/pld/boards-directors/administration/faq#Open_Meetings
- Open Meetings Compliance Guide from the Wisconsin Department of Justice, found at: <https://www.doj.state.wi.us/office-open-government/office-open-government-resources>
- Legal FAQ on open meetings from the League of Wisconsin Municipalities: <http://lwm-info.org/957/Open-Meetings-Law>
- The Library Board and the Open Meetings Law (Trustee Essential # 14): <http://dpi.wi.gov/sites/default/files/imce/pld/pdf/TE14.pdf>

Updated 12/14/16