

Open Meeting Law FAQs



This resource has been updated to reflect the changes from the 2025 legislative session. [Text of Bill](#)

The Open Meeting Law [1 V.S.A. §§ 310-314](#), provides that “[a]ll meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title [on executive sessions].” [1 V.S.A. § 312\(a\)](#). The intent of the law is to create transparency in government by requiring advance public notice and an opportunity for public participation in governmental decisions. This set of FAQs provides an overview of essential aspects of the law.

Disclaimer: This resource is only intended to provide information and it does **NOT** constitute legal advice. Readers with specific legal questions are encouraged to contact an attorney. The use or downloading of this resource does **NOT** create an attorney-client relationship and will not be treated in a confidential manner.

If you have additional questions please use the ask a question button to submit them.

Ask a Question

Requirements

What are the requirements of the Open Meeting Law?

1. Provide advance notice of meetings. [1 V.S.A. §§ 312\(c\), 310\(5\)](#)



2. Create and post an agenda for all regular and special meetings. [1 V.S.A. § 312\(d\)](#)
3. Conduct all business in an open meeting (unless an exemption applies). [1 V.S.A. §§ 312\(a\); 313\(a\)](#)
4. Vote by roll call when there is electronic participation. [1 V.S.A. § 312\(a\)\(2\)\(B\)](#)
5. Allow public comment at meetings. [1 V.S.A. § 312\(h\)](#)
6. Take and post minutes. [1 V.S.A. § 312\(b\)](#)
7. Record, in audio or video form, all meetings of non-advisory bodies.
8. Post copies of recordings of non-advisory body meetings in a designated electronic location for a minimum of 30 days following the posting of the meeting minutes.
9. Respond to complaints of violation. [1 V.S.A. § 314\(b\)\(2\)](#).
10. Provide electronic/telephonic or in-person meeting access to a local resident, member of the public body, or member of the press to a regularly scheduled meeting, upon request, unless:
 1. there is an all-hazards event or state of emergency;
 2. there is a "local incident;" and
 3. compliance would impose an "undue hardship."
11. Post on its website (if it maintains one):
 1. an explanation of the procedures for submitting notice of an Open Meeting Law violation to the public body or the Attorney General; and
 2. a copy of the text of [1 V.S.A. § 314](#).

To whom does the law apply?



The law applies to every “public body” of a municipality. A public body is any board, council, commission, committee, or subcommittee of a municipality. [1 V.S.A. § 310\(4\)](#). This includes bodies that are specifically mentioned in state statute and municipal charter such as selectboards, prudential committees, planning commissions, conservation commissions, cemetery commissions, development review boards, boards of civil authority, boards of health, zoning boards of adjustment, etc. It also includes committees and subcommittees of those groups. The law does not apply to community justice boards or community justice centers. [24 V.S.A. § 1964\(b\)](#).

What’s the difference between an “advisory” and a “non-advisory” public body?

The law draws a distinction between advisory and non-advisory (“decision-making”) public bodies by imposing stricter requirements on decision-making bodies.

Advisory body

The law defines an “advisory body” as a “public body that does not have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters.” [1 V.S.A. § 310\(1\)](#). An advisory body, by its very name, advises, which means that it lacks final statutory decision-making authority. If a public body has final decision-making authority over any legislative, quasi-judicial, tax, or



budgetary matter then it is categorically not an advisory body, which makes it, in turn, a decision-making body.

The determination of whether a body is advisory or decision-making can be tricky. If you are unsure if you are an advisory body, please reach out to your legal counsel. Alternatively, bodies can follow the requirements for decision-making bodies.

Non-advisory (“decision-making”) body

Though not explicitly defined by the law, a “non-advisory body” is a decision-making body, one that does have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters. Making the call here will likely necessitate a short, fact-based determination. For example, a planning commission that hears applications for development review would be considered a decision-making body because it exercises control over some quasi-judicial matters, even though most of its time may be spent advising the selectboard on the adoption, amendment, or repeal of the town plan and zoning regulations. Some other examples of decision-making public bodies include the legislative bodies (selectboard, school board, city council, village trustees, prudential committee, and alderman), cemetery commission, library trustees, board of listers, board of civil authority, board of abatement, water and sewer commission, and local board of health.

When does the law apply?



The requirements of the law are triggered whenever a “quorum” of the body is “meeting.” A quorum is a majority of the total members of the body. Quorum is determined based on the number of positions on the body, not the number of persons occupying those positions.

Therefore, quorum does not change when there is a recusal or a vacancy.

“Meeting” is defined as a gathering of a quorum of the members of a public body for the purpose of discussing the business of the body or for the purpose of taking any action. [1 V.S.A. § 310\(3\)\(A\)](#). “Business of the public body” is defined as the public body’s governmental functions, including any matter over which it has supervision, control, jurisdiction, or advisory power. [1 V.S.A. § 310\(1\)](#).

The Law applies regardless of the physical location of the members; the members don’t all have to be in the same room at the same time for it to be considered a “meeting” under the Law. Therefore, a phone conversation between a quorum of the members is a “meeting” for purposes of the law. Furthermore, time likely is also not a factor. If a conversation occurs over a period of time (for instance in a string of emails) that conversation may still amount to a “meeting” under the Law. This is why public bodies should generally avoid the use of group emails.

Does this mean that we can never be in the same room at the same time unless we are in a meeting?



Not necessarily. The law does not prohibit a quorum of members of a public body from assembling at social functions, conventions, conferences, training programs, press conferences, media events, or otherwise gathers, provided that the members refrain from discussing specific business of the public body that they expect to take up at a later time. [1 V.S.A. § 310\(3\)\(C\)](#). The Law also allows a quorum of the members of a public body to talk about routine administrative matters (such as scheduling meetings) outside of a meeting.

The following does not constitute a "meeting" for purposes of the law: "any communication, including in person or through e-mail, telephone, or teleconferencing, between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that: (i) no other business of the public body is discussed or conducted; and (ii) such communication that results in written or recorded information shall be available for inspection and copying under the Public Records Act." [1 V.S.A. § 310\(3\)\(B\)](#).

Can a quorum of one public body attend the meeting of another?

Yes. A gathering of a quorum of a public body at a duly warned meeting of another public body is not considered to be a "meeting," provided that the attending public body does not take action on its own business. [1 V.S.A. § 310\(3\)\(D\)](#)



What are the different types of meetings and why does it matter?

There are three types of meetings under the Law. The Law imposes different requirements for notices and agendas depending on the type of meeting that is being held.

- "Regular meetings" are meetings that take place at a regularly occurring, pre-arranged time and day.
- "Special meetings" are meetings that take place at any time or date outside of the "regular" meeting schedule.
- "Emergency meetings" may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body. [1 V.S.A. § 312\(c\)\(3\)](#).

How can we process payroll and other bills in between selectboard meetings?

Individual members may not merely show up at the town office and sign payment orders at their convenience as this would constitute a violation of the Open Meeting Law (OML). The OML requires a majority of selectboard members to take an action or make a decision (e.g., sign an order approving payment), only within the context of a duly warned open meeting. [1 V.S.A. § 172](#). There are two exceptions to the above general rule both of which require the selectboard to meet at least once:



- First, the selectboard can vote at a duly warned meeting to approve certain payments in advance so that there is no need for members to sign orders. Such a vote must identify the person(s) to whom payment is to be made and the purpose(s) for that payment. The treasurer may then use a certified copy of the minutes from this meeting as full authority to make the approved payment. [24 V.S.A. § 1623\(a\)\(2\)](#).
- The second exception allows the selectboard to authorize one or more members to review and approve orders on behalf of the entire board. A vote to give such authorization must take place at a duly warned selectboard meeting and must be reflected in the meeting minutes. A motion to give such authorization might be phrased as, "I move that we appoint [insert name(s) of legislative body member(s)] to approve and sign orders for [insert types of claims that the person has authorization to approve such as "payroll," "operating expenses," etc.] for [insert period of time]." Any orders that are approved under this authority must state definitely the purpose for which they are drawn. The full selectboard must later be provided with a record of all the orders approved. [24 V.S.A. § 1623\(a\)\(1\)](#).

Relatedly, if there are so many vacancies on the selectboard that a quorum cannot be achieved, the remaining member(s) have the authority to draw orders for payment of continuing obligations and necessary expenses until the vacancies are filled. [24 V.S.A. § 961\(b\)](#).

If a member is unable to attend a meeting, can that person vote by email or proxy?



No, the law does not allow for voting by email or by proxy. However, the law allows members to attend a meeting by electronic means (e.g., speaker phone or Skype), and to vote at that meeting, so long as the other requirements of the Open Meeting Law are adhered to (see #8, below). [1 V.S.A. § 312\(a\)\(2\)](#).

Email, Phone, and Other Electronic Communication

Do group emails violate the Law?

Not necessarily. Group emails may be used to schedule a meeting, create an agenda, or to distribute materials to discuss at a meeting. Group emails should never be used for discussion purposes (which is why you should avoid hitting the "Reply All" button as that may create a group discussion that constitutes a meeting under the law). Communications among a quorum of members regarding the public body's business is defined as a meeting and elicits the requirements of the Open Meeting Law: public notice, agenda, open to the public, public comment, and meeting minutes. Emails must generally be available for copying and inspection as public records. [1 V.S.A. § 310\(3\)\(B\)\(ii\)](#).



In addition, email may be used in instances where a public body is engaged in a quasi-judicial deliberation – for instance, when a development review board is in the midst of drafting the written decision on a permit application. [1 V.S.A. § 312\(e\)](#). Before taking advantage of this exception to the Law, the public body must have conducted a quasi-judicial hearing in public session, and then entered into deliberative session to discuss the evidence and decide how to proceed. (See below.)

Can a member attend a meeting by phone or other electronic means (Zoom, Microsoft Teams, etc.)?

Yes, a member may participate and vote at a meeting by electronic means (e.g., speaker phone, Skype, etc.) as long as that member identifies themselves when the meeting is convened and the member is able to hear and be heard throughout the meeting. Whenever one or more members attend electronically, voting must be done by roll call for any vote that is not unanimous. [1 V.S.A. § 312\(a\)\(2\)](#).

Can we use document sharing platforms such as Google docs, Teams, or OneDrive?



Though it is a question of first impression that has yet to be addressed by a Vermont court, the law likely prohibits public bodies from doing this type of collaborative work (i.e. working, commenting, sharing ideas, and making statements or corrections on a shared document, whether simultaneously in real-time or through a series of individual communications over a period of time) outside the confines of an open meeting. This is because such action may violate the intent behind the Open Meeting Law, which is to assure that substantive conversations and decisions by municipal public bodies are made in public. By using a method of on-line communication such as Google Docs, to which the public has limited access, a public body is accomplishing what otherwise may only be accomplished in the context of an open meeting. If members, totaling a quorum, are indicating their approval or disapproval, or making comments and suggestions via these platforms, whether simultaneously or serially as individual members, the use of the software may be a violation of the Open Meeting Law.

To avoid a potential violation of the law, we recommend that members work independently to compose, comment, and edit documents. And while those drafts, comments, and edits may be disseminated (sent by one-way communication) to the other members, all discussions or decisions about those documents should take place during the course of a duly warned open meeting. Alternatively, a public body can designate a point person or several members to work collaboratively on a document using this type of collaborative software outside of its meetings – so long as the total number of members stays under the quorum threshold (i.e., less than the majority of the total membership of the



public body), and the work is then brought to a duly warned open meeting for discussion and approval by a quorum of the body.

There is one exception where the use of collaborative software would be appropriate: in the context of a deliberative session during a quasi-judicial proceeding, as allowed by the Open Meeting Law. Since deliberative sessions fall outside the context of the Open Meeting Law, they may be conducted by Google Docs or other electronic communication without violating the law.

Can we use social media to communicate with the public and each other?

Members must be cautious of using social media platforms such as Facebook or Front Porch Forum. While these platforms may be useful tools in connecting with the public and providing transparency, a violation of the law may occur if a quorum of members has a dialogue concerning the public body's business on those platforms. The use of Front Porch Forum is even more of a liability because the Open Meeting Law requires that all members of the public have the "right to be present, to be heard, and to participate." State of Vermont Emergency Bd., 136 Vt. 506, 508 (1978). Unlike Facebook, where most anyone can join and participate, Front Porch Forum restricts access to local residents only.

Even though using social media is not formally addressed in the Open Meeting Law, local officials need to be aware that the Vermont Supreme Court interprets the law liberally in support of the overriding policy goal of open access to public meetings. And while the use of social media is not prohibited by the law, their use



requires awareness and caution on the part of public bodies to avoid possible violations.

In-Person, Remote, and Hybrid Meetings

What if a majority of members are not able to be physically present? Can they still have a meeting?

Yes. A quorum or more members of a public body may participate in a meeting electronically when the agenda that has been posted for such meeting designates at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the body or at least one staff person or other designee must be present at that physical location. Each member that attends electronically must identify themselves when the meeting is convened and must be able to hear and be heard throughout the meeting. Any voting that occurs at the meeting that is not unanimous must be done by roll call.

[1 V.S.A. § 312\(a\)\(2\).](#)

In this case, the public body can choose whether it will offer remote access to the public. It doesn't have to, even if its members are participating electronically, unless a request is made and meets certain criteria (see below). If public access is only offered at the physical meeting location, it would be warned as an in-person



meeting despite remote access for its members.

Can a decision-making body meet remotely (i.e., without designating a physical meeting location)?

Yes, but only to attend an emergency meeting of the body or when necessary to respond to a local incident or a declared state of emergency.

Does a local public body ever have to meet remotely (i.e., without designating a physical meeting location)?

No. A local public body, whether advisory or decision-making, is never required to meet remotely (i.e., without designating a physical meeting location). It may meet remotely when the circumstances detailed above warrant. This is distinct from the hybrid requirement for State decision-making bodies, which necessarily includes remote access.

Can a local public body still hold hybrid meetings?



Yes. This has not changed. The public body may offer remote access through electronic participation for its members and the public, provided that:

- the posted agenda designates at least one physical location where the public can attend and participate in the meeting;
- at least one body member, staff person, or other designee is present at that physical location throughout the meeting;
- each member that attends electronically identifies themselves when the meeting is convened and must be able to hear and be heard throughout the meeting; and any voting that occurs at the meeting that is not unanimous must be done by roll call [1 V.S.A. §312\(a\)\(2\)](#).

This is a pre-existing provision of the Open Meeting Law not affected by the sunset of Act 1 (2023) or the enactment of Act 133 (2024).

What is a “local incident” for purposes of remote meeting allowances?

Act 133 (2024) defines a “local incident” as “a weather event, loss of power or telecommunication services, public health emergency, public safety threat, received threat that a member of the public body believes may place the member or another person in reasonable apprehension of death or serious bodily injury, or other event that directly impedes the ability of a public body to hold a meeting electronically or in a designated physical location.” [1 V.S.A. § 312a\(a\)\(4\)](#).



What does a public body need to do before it can meet remotely in response to a local incident?

Before meeting remotely, in response to a local incident, the highest ranking elected or appointed officer of the public body (e.g., the chair, or the vice-chair if the chair is not available) must first make a formal written finding and announcement of the local incident which includes the basis for the finding. These written findings should be permanently retained.

How does someone request a physical meeting location or electronic access to a public meeting?

A resident of the geographic area in which the public body has jurisdiction, or a member of the public body or the press, may request in-person or remote access to the public body's next regular meeting by submitting to the public body a request, in writing, at least two business days before the meeting. The request should specify what type of access is sought (e.g. a designated physical location, a telephone conference call, access via an electronic meeting platform) and provide any relevant contact information. A requestor is not required to provide a basis for the request.

Does a public body have to designate a physical meeting location or provide electronic access to its meetings upon request?



It depends on the circumstances. A resident of the jurisdiction served by the public body, a member of the public body, or a member of the press may request that a public body provide additional access to a regular meeting by designating a physical location for a remote-only meeting or by providing electronic/telephonic access to an in-person meeting. The request must be made in writing no less than two business days before the meeting to be considered. Such requests only apply to the public body's next regularly scheduled meeting and not to a series of regular meetings, special meetings, emergency meetings, or field visits. Because the requests only pertain to regularly scheduled meetings, they do not pertain to special or emergency meetings of a public body.

The public body must grant the request unless:

- there is an all-hazards event or a declared state of emergency;
- there is a local incident; or
- for a municipal public body, compliance would impose an undue hardship.

Does a granted request for a physical meeting location or electronic access apply to just the requestor or is access granted to the public at large?

Since the underlying policy of Open Meeting Law is access to public meetings, expanded access should apply to the public at large unless it creates undue hardship. Generally, requests for physical access apply to the general public,



whereas requests for electronic access may be more complicated and could reasonably only apply to the individual requestor.

Does the law require a public body to designate a physical meeting location or provide electronic access to its hearings upon request?

No. Even though hearings are meetings, in that a hearing represents a “gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action,” a hearing is not a “regular meeting” (i.e., a meeting that takes place at a regularly occurring, pre-arranged time and day). [1 V.S.A. § 310\(3\)\(A\)](#). The right to request that a public body designate a physical meeting location or provide electronic or telephonic access only applies to a regular meeting of a public body.

Please note that if a hearing is held during a regular meeting, requests for alternate access to the regular meeting must be honored as the law requires.

What constitutes an “undue hardship” for purposes of requests for electronic access or for recording meetings (see below)?

The law defines an “undue hardship” as “an action requiring significant difficulty or expense to the unit of government to which a public body belongs, considered in



light of factors including the overall size of the entity, the availability of necessary personnel and staff, the entity's available resources, and the costs associated with compliance." [1 V.S.A. § 310\(g\)](#).

Since a municipality claiming this exemption has the burden of proving that compliance would impose an undue hardship, we advise that any municipality claiming an exemption have its legislative body document its finding after hearing relevant supporting evidence during an open, public meeting and record it in the meeting minutes. Given the factors that make up this definition, it's unlikely that, in most circumstances, this exception would apply to any but the smallest of municipalities.

Who makes the decision to hold hybrid meetings?

The answer to this question depends on whether the members of the public body in question are elected by the voters of the town or are appointed by the town's selectboard. If the members are elected, then a majority of the total membership of their board can decide how (within the confines of the law) to conduct its meetings. If the members are appointed, then it will be the public body that created them – typically, though not always, the selectboard – which has ultimate control over how their meetings are held.

Agendas



Does the law require an agenda for every meeting?

A written agenda must be created in advance of every regular or special meeting. [1 V.S.A. § 312\(d\)](#). There is no requirement for an agenda for an emergency meeting.

Do we have to post the agenda?

Yes. At least 48 hours in advance of a regular meeting, and at least 24 hours in advance of a special meeting, an agenda must be posted in or near the municipal office and in at least two other designated public places in the municipality or a neighboring municipality (if your municipality doesn't have sufficient public places). [1 V.S.A. § 312\(d\)](#). If it has not already done so, every municipality should officially designate two or more public places in the municipality at which agendas will be posted.

Our opinion is that the legislative body can make this designation on behalf of all of the public bodies in the municipality, unless those bodies are independently elected. In addition, agendas for regular and special meetings must be posted to an official website, if one exists that is maintained or has been designated as the official website of the public body. Agendas must also be made available to any person prior to the meeting upon specific request. [1 V.S.A. § 312\(d\)](#).



What must be contained in an agenda?

The Open Meeting Law says that an agenda must “contain sufficient details concerning the specific matters to be discussed by the public body.” An agenda should include specific topics such as “proposed contract with ambulance service,” or “discussion of speed limit on town highway 7” rather than general terms such as “contract,” or “speed limits” which do not provide notice to the public about what will be discussed and decided.

Additionally, whenever a public body includes an executive session as an item on a posted meeting agenda, the public body must list the agenda item as “proposed executive session” and indicate the nature of the business of the executive session. We recommend using the same terminology as the allowance for executive session in the law on both the agenda and the motion to enter into executive session.

A public body meeting without a physical meeting location must post information that enables the public to directly access the designated electronic platform and include this information in either its published agenda or public notice for the meeting.

Can we add items to an agenda after it is posted?



A public body may table or otherwise postpone an item on their meeting agenda, when necessary, as in situations where additional information is needed before a decision may be made. Other adjustments to an agenda such as changing the order of items may be made at any time during the meeting. [1 V.S.A. § 312\(d\)\(3\)\(B\)](#).

There are more stringent standards for adding items to an agenda. The Law was amended in 2014 to state that an item may only be added or removed from a meeting agenda as the first order of business at that meeting. [1 V.S.A. § 312\(d\)\(3\)\(A\)](#). Our opinion is that the language in [1 V.S.A. § 312\(d\)\(3\)\(A\)](#) does not give a public body free reign to alter a meeting agenda at the last minute. Instead, our advice is that once the deadline for posting an agenda has passed (48 hours in advance of a regular meeting and 24 hours in advance of a special meeting) items should only be added to that agenda when necessary to deal with an unforeseen occurrence or condition requiring immediate action. In all other cases, an item that has not been listed on a posted agenda should not be discussed as a last-minute addition. Instead, the body should place the item on the agenda of their next regular meeting or, if necessary, call a duly noticed special meeting to address that item. Taking this approach will ensure that the public has adequate advance notice and an opportunity to be heard on all topics to be discussed and decided by the public body.

Posting, Noticing, and Announcing Meetings



What are the requirements for noticing and announcing a meeting?

- **Regular meetings:** Regular meetings of a public body (i.e. meetings that occur at a regular date, time, and place) only need to be announced once: in a charter, local ordinance, or resolution. [1 V.S.A. § 312\(c\)\(1\)](#). A resolution regarding the regular meeting schedule can be done in the public body's annual organizational meeting (first meeting of the year). However, an agenda must be posted in advance of every regular meeting. [1 V.S.A. § 312\(d\)](#).
- **Special meetings** (meetings that occur outside of the regular schedule): must be publicly announced at least 24 hours in advance. [1 V.S.A. § 312\(c\)\(2\)](#). A meeting is "publicly announced" when notice is given either orally or in writing to all the members of the public body; to an editor, publisher, or news director of a newspaper or radio station serving the area; and to any person who has requested notice of such meetings. [1 V.S.A. § 310\(5\)](#). In addition, notices and agendas must be posted at the municipal clerk's office and in at least two other designated public places in the municipality, or a neighboring municipality (if your municipality doesn't have sufficient public places), at least 24 hours in advance. [1 V.S.A. § 312\(c\)\(2\)](#).
- **Emergency meetings:** There is no specific requirement for announcing and posting notice for emergency meetings (which are held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body) although "some public notice must be given as soon as possible before any such meeting." [1 V.S.A. § 312\(c\)\(3\)](#).



Meeting Minutes & Recordings

Do we have to take minutes at every meeting and provide them to the public? Who is responsible?

Yes. Minutes must be taken at every public meeting. Minutes need not be taken in executive session, but if they are, they are not subject to a public records request. [1 V.S.A. § 313\(a\)](#). Each public body is responsible for creating its own minutes. Minutes must be kept by the secretary or clerk of the public body (which may or may not be the municipal clerk). [1 V.S.A. § 312\(b\)\(1\)](#).

What must be included in the minutes?

Meeting minutes do not have to be a transcript of the meeting. Minutes must give a "true indication of the business of the meeting" - which may require supplementing the following statutorily required elements: members present; active participants at the meeting; motions, proposals, and resolutions made, offered, and considered and what disposition is made of the same; the result of any votes taken; and a record of individual votes if a roll call is taken. [1 V.S.A. § 312\(b\)\(1\)](#).



When must minutes be available/posted?

Minutes must be available for inspection five calendar days after the meeting. [1 V.S.A. § 312\(b\)\(2\)](#). In addition, minutes must be posted no later than five calendar days after the meeting to an official website, if one exists, that is maintained or has been designated as the official website of the public body. [1 V.S.A. § 312\(b\)\(2\)](#). Except for draft minutes that have been substituted with updated minutes, posted minutes shall not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken. [1 V.S.A. § 312\(b\)\(2\)](#).

How can we have time to approve or finalize the minutes if they have to be available within 5 days?

There is nothing in the Open Meeting Law that requires any official finalization, correction, or approval action by the public body. Since there is no law on the subject it is up to each public body to decide whether and how it will deal with corrections, approvals, etc. Many public bodies make it a practice to create a set of minutes labeled "draft" or "unapproved" and subsequently correct and "approve" those minutes at a subsequent meeting. This is done as an acknowledgement that the body has read the draft minutes and agree that they accurately reflect what took place at the meeting

Can minutes be amended?



Yes. However, the edited version must comply with the law's requirements. This means the revised minutes must still cover all topics and motions that arise and give a true indication of the business of the meeting by including, at a minimum: the members present; all other active participants at the meeting; all motions, proposals, and resolutions made, offered, and considered and what disposition is made of the same; and the result of any votes taken with a record of individual votes if a roll call is taken. [1 V.S.A. § 312\(b\)\(1\)](#).

How are minutes amended?

Minutes can be amended by concurrence of a majority of the total membership of the public body in the context of a duly warned public meeting. "When joint authority is given to three or more, the concurrence of a majority of such number shall be sufficient and shall be required in its exercise." [1 V.S.A. § 172](#). Be sure this is listed as an agenda item such as "Review and Approve Minutes" or something similar.

Do all public bodies need to record their meetings?

No. There are different requirements for recording as well as recording formats.



- State decision-making bodies must video record their meetings.
- Local decision-making bodies must record their meetings, unless undue hardship applies, and may choose either audio or video recording format.
- State and local advisory bodies are not required to record their meetings (but may choose to do so).

Do recordings of decision-making meetings need to be posted?

Yes. Decision-making bodies must post a copy of each meeting recording in a designated electronic location for a minimum of 30 days following the posting of the minutes of that meeting.

How does a public body count the 30 days for posting?

The recordings of decision-making public body meetings required by Act 133 (2024) must be retained for 30 days after posting.

In response to Act 133 (2024), the Vermont State Archives & Records Administration (VSARA) has developed an updated record schedule specifically to address [recordkeeping requirements for public bodies](#). A [one-page quick reference guide](#) is available. View VSARA's [guidance for managing and disposition of public records](#) or contact a VSARA Records Specialist at



sos.rim@vermont.gov or (802) 828-3700.

Are there any exceptions to this recording and posting requirement?

Yes. A municipality's decision-making bodies do not have to record or post recordings of their meetings if doing so would impose an "undue hardship" on the municipality. The determination process for "undue hardship" is explained above.

The recording requirement also does not apply to gatherings of a public body for purposes of a site inspection or field visit.

Where do we post our recordings if we don't have a website?

If a municipality does not have a website, then its decision-making public bodies need to designate a different electronic location, unless doing so would constitute an undue hardship.

Is a designated electronic location limited to a municipal website?



No. A designated electronic location could include, for example, a community access media site. Many municipalities lack the technology to video record their meetings but are served by community access media who do. The website of a community access media company could be designated as a municipality's official electronic location for the posting of meeting recordings of decision-making public bodies.

One potential complication to this arrangement is that the municipality needs to ensure that the company posts all meeting recordings for the requisite 30 days following the approval and posting of the official minutes. We strongly recommend that the municipality maintain a copy for itself to comply with any Public Records Act requests. Community access media companies are not "public bodies" under the law and a municipality cannot abdicate its obligations under either the Open Meeting Law or Public Records Act by imposing them upon another party.

YouTube is another option, as accounts are free to create and maintain. A municipality could create an account for the upload of decision-making public bodies' recordings.

Who designates an electronic location for posting the meeting recording?

It appears from the text of Act 133 (2024) that the decision-making public body holding and recording the meeting has the authority to designate the electronic



location where the recording will be posted. Since even the smallest of towns can have many decision-making public bodies, this could lead to recordings of public meetings being kept in multiple electronic locations, which makes it more difficult for the public to access them. Accordingly, we recommend that each municipality's legislative body designate one electronic location to which all decision-making public bodies can post their meeting recordings. This is the simplest way to comply with the law.

If a public body, advisory or decision-making, meets remotely for any reason, does it still need to physically post meeting notices and agendas?

Yes, except an affected public body that meets during a local incident or declared state of emergency may post notices and agendas in one or two publicly accessible designated electronic locations in lieu of one or two designated public places, respectively.

For the most part, the Open Meeting Law's notice and agenda requirements have not changed. One exception is that if a public body meets remotely, it must now also post information that enables the public to directly access the designated electronic platform and include this information in either its published agenda or public notice for the meeting.

How can public bodies maintain order during a hybrid meeting?



The same way it would maintain order during a physical meeting. The chairperson should administer the meeting in accordance with the public body's rules of procedure. The Open Meeting Law requires that the public be given a reasonable opportunity to express their opinion on matters considered by a public body. This has not changed and still applies equally to all meetings, regardless of how they are conducted.

Civility, decorum, and order are all essential elements of a successful public meeting. At times, these elements are difficult to achieve even under the best of circumstances. One of the additional challenges posed by conducting a remote meeting is the absence or delay of any real-time physical cues. For example, if a meeting is conducted by conference call only, the chairperson is unable to see who has their hand raised to be recognized. Members of the public body and the public must also be mindful not to talk over one another and to speak clearly so that meetings can be properly recorded (if applicable) and that all can hear and be heard throughout the meeting. It's important therefore that the public body review its rules of procedure and amend them if necessary to ensure they are still applicable to remote meetings. More than ever, it is incumbent upon public bodies to educate their own members and those of the public as to its rules of procedure and how they will be enforced.

Does the new recording requirement mean we do not have to take minutes of those meetings?



No. Meetings minutes are still required by the Open Meeting Law. The new recording requirement for meetings of decision-making public bodies is in addition to, not a substitute for, the existing minutes requirement.

Can advisory public bodies continue to meet in physical locations if they so choose?

Yes. The amendments to the Open Meeting Law authorizing remote-only meetings for advisory bodies are permissive, not restrictive. The law does not prevent members of any public body, including advisory ones, from physically gathering in the same location (or from holding a hybrid meeting) to meet, so long as those meetings are also open to the public.

If a member can't attend a meeting, can they vote by email or proxy (i.e., have another person vote on behalf of the member)?

No. The law does not allow voting by email or by proxy in any case.

What are some methods or technology public bodies can use for hybrid meetings?



The law does not specify methods for electronic participation in a hybrid meeting, except to say that it can be through electronic or other means and that the body must allow the public to access, attend, and participate in a meeting by telephone. Some virtual meeting software options include Zoom, GoToMeeting, RingCentral, DialPad, Skype, FreeConferenceCall.com, and Vast Conference. Public bodies can also contact their local telephone service provider to ask about standard conference call options that use just a telephone system.

We encourage public bodies holding hybrid meetings to use various means concurrently, if possible, to ensure members of the public have options. Broadband is not always a reliable option for Vermonters, so offering a menu of choices to enable access, attendance, and participation in the same meeting, concurrently, is ideal. For instance, a public body can set up a Zoom or Skype video meeting but also have a speaker phone positioned near someone's computer to capture audio for a conference call option. Think creatively but be sure to provide clear instructions in either the published agenda or public notice for the meeting so everyone is made aware of these options and how to avail themselves of them.

Can a member who is participating in a meeting electronically sign documents electronically?

Documents may be signed by a quorum of any public body or by an individual member delegated in writing to have signatory authority by the public body.



Generally, whether electronic signatures can be used in the State of Vermont depends on the circumstances. The Vermont Uniform Electronic Transactions Act (VUETA) defines an “electronic signature” as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” Under VUETA, if a law requires a signature and does not specify non-electronic form, then an electronic signature will suffice, provided that certain requirements (e.g. relating to consent, record-keeping, security) are met. The full law may be accessed [here](#). The Vermont State Archives and Records Administration (VSARA) also has an [electronic signatures best practices guide](#) [here](#). For additional guidance on best practices and answers to frequently asked questions regarding electronic signatures, including their retention, please visit VSARA's website.

Training

What are the law’s training requirements?

The law requires annual professional training on the topic of Vermont's Open Meeting Law. The Secretary of State's office has developed the training and has made it available to municipalities, subdivisions, and public bodies. The training may be in person or on-line, live or recorded. Find the training on the [Secretary of State's Open Meetings page](#).



Do all government officers have to undergo training?

No. The only municipal officers who must do so are the chairs of the legislative bodies (e.g., selectboard, school board, city council, board of trustees, prudential committees, etc.), municipal managers, and mayors. (While Act 133 (2024) applies to school boards, the open meeting law training obligation already exists for school board chairs in [16 V.S.A. § 561](#).)

Exceptions to the Open Meeting Law

In what instances can a public body meet in private?

There are limited instances in which a public body can meet in private. These instances are described in the exceptions to the Open Meeting Law which are as follows:

- Site inspections for the purpose of assessing damage or making tax assessments or abatements. [1 V.S.A. § 312\(g\)](#); Clerical Work. [1 V.S.A. § 312\(g\)](#);
- Work Assignments of staff or other personnel. [1 V.S.A. § 312\(g\)](#);
- Routine, day-to-day administrative matters that do not require action by the public body, provided that no money is appropriated, expended, or



encumbered. [1 V.S.A. § 312\(g\)](#);

- Deliberative sessions within the context of a quasi-judicial proceeding. [1 V.S.A. § 312\(e\)](#); and
- Executive sessions. [1 V.S.A. § 312\(a\)](#).

Is there an exception for "work sessions"?

No. The only exceptions to the law are those that are listed above.

What falls under the exception for "routine administrative matters"?

We don't have case law interpreting this exception, so we suggest taking a narrow view. This exception has primarily been used by the town listers and auditors when engaged in routine administrative matters, such as when they update listers cards, examine the treasurer's spread sheets, etc. On the other hand, this exception has not applied historically to the actions taken by the listers and auditors that are specifically required by statute (such as lodging the grand list, making decisions about the annual auditors' report, etc.). Therefore, we recommend such actions only be taken in the context of a duly warned open public meeting that meets all the requirements of the Open Meeting Law. Remember, these are options a public body can use but don't have to use them; public bodies can always go above and beyond the minimum statutory



requirements and satisfy the law even if an exception exists.

What is a "deliberative session"?

A deliberative session occurs only in conjunction with a quasi-judicial proceeding. These are situations where a public body (such as a selectboard or development review board) is acting like a judge or jury in that it takes evidence or testimony, and then weighs, examines, and discusses the reasons for or against an act or decision based on that evidence. [1 V.S.A. § 310\(6\)](#). Examples include tax appeal hearings before the board of civil authority; vicious dog hearings and employment termination hearings before the selectboard; and zoning and subdivision hearings before a planning commission, zoning board of adjustment, or development review board. The exception for deliberative session is limited to quasi-judicial proceedings and does not apply simply because the public body wants time to deliberate in private.

Do we have to come out of deliberative session to issue or adopt a decision?

Generally, no. The law allows a public body to make a decision in deliberative session so long as the decision is issued in writing and the writing is a public record. [1 V.S.A. § 312\(f\)](#). This means that after the public body has heard all of the evidence in a hearing, it may adjourn the public portion of the hearing, privately



discuss and determine the merits of the case, and then circulate drafts of an opinion for comment and approval prior to issuing its formal written decision.

What about executive session? When can we use that exception?

Rarely. An executive session is a closed portion of a public meeting and is allowed only in certain limited situations. Those that apply to municipal bodies are as follows:

1. Negotiating or securing real estate purchase or lease options. [1 V.S.A. § 313\(a\)\(2\)](#)
2. The appointment or employment or evaluation of a public officer or employee (but

the public body must make a final decision to hire or appoint in an open meeting and it must explain the reasons for its final decision). [1 V.S.A. § 313\(a\)\(3\)](#)

3. A disciplinary or dismissal action against a public officer or employee (but such officer or employee has the right to a public hearing if formal charges are brought). [1 V.S.A. § 313\(a\)\(4\)](#)
4. A clear and imminent peril to the public safety. [1 V.S.A. § 313\(a\)\(5\)](#)
5. Discussion or consideration of records or documents that are exempt from the public records laws (but that does not give authority to discuss the general subject to which the document pertains). [1 V.S.A. § 313\(a\)\(6\)](#)



6. Security, cybersecurity, or emergency response measures, the disclosure of which could jeopardize public safety. [1 V.S.A. § 313\(a\)\(10\)](#)
7. When (and only when) the public body has made a specific finding that premature general public knowledge would clearly place the state, municipality, other public body, or a person involved at a substantial disadvantage, it may go into executive session to discuss one of the following:
 - contracts;
 - labor relations agreements with employees; arbitration or mediation;
 - grievances, other than tax grievances;
 - pending or probable civil litigation or a prosecution, to which the public body is or may be a party; or
 - confidential attorney-client communications made for the purpose of providing professional legal services to the body. [1 V.S.A. § 313\(a\)\(1\)](#)

What is “premature general public knowledge” and how could that place someone at a substantial disadvantage?

To go into executive session to discuss one of the subjects listed in [1 V.S.A. § 313\(a\)\(1\)](#), there must be a reason that the subject cannot be discussed in open session at that time. For instance, if the municipality is in a contract negotiation, the selectboard would not want to discuss its proposed terms as that would give the other side an advantage at the bargaining table. In that instance, premature public knowledge of the subject would place the municipality at a substantial



disadvantage.

When can we enter into executive session to discuss legal matters?

The Law sets out two reasons to discuss legal issues in executive session once there has been a finding that premature general public knowledge would place a person or entity at a substantial disadvantage. First, you may discuss "pending or probable civil litigation or a prosecution, to which the public body may be a party." Second, you may discuss "confidential attorney-client communications made for the purpose of providing professional legal services to the body." [1 V.S.A. §§ 313\(a\)\(1\)\(E\) and \(F\)](#). In addition, the law allows a public body to have its attorney, among others, present during executive sessions. [1 V.S.A. § 313\(b\)](#) ("Attendance in executive session shall be limited to members of the public body, and, in the discretion of the public body, its staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed.") In addition to the above, the Law also allows a public body to discuss correspondence from the municipal attorney under [1 V.S.A. 317\(c\)\(4\)](#). This provision of law exempts from the general rule of disclosure "records which, if made public ... would cause the custodian to violate any statutory or common law privilege." The attorney- client privilege falls within this exemption.

What are the logistics of entering into executive session?



A motion to go into executive session must be made during the open portion of a meeting and must indicate the nature of the business to be discussed. [1 V.S.A. §§ 313\(a\)](#). We recommend that you state the specific statutory provision that gives authority to enter into such session ("Title 1, Section 313, Subsection of the Vermont Statutes"). We also recommend that you provide in your motion as much information as you can, without giving away the details that necessitate the executive session. The motion must get the vote of a majority of the members present to pass. [1 V.S.A. §§ 313\(a\)](#).

Do we have to put executive session on our meeting agenda?

Although there is no specific affirmative legal obligation on behalf of a public body to warn an executive session on its meeting agenda, we would recommend adding it to your agenda if you think there is a good possibility that you may enter executive session. We would not recommend, however, simply just adding it to every agenda.

Some think that it is not proper to warn an executive session because it presupposes that an executive session will be held. Others, ourselves included, are of the opinion that because the underlying purpose of having an agenda is to provide advance notice to fellow board members and the public of what business is likely to be taken up, that warning an executive session seeks to fulfill that purpose. Therefore, we think it is a best practice to list an executive session on an



agenda when the public body knows in advance that it may have one. Listing it as a "possible executive session" or a "potential executive session" signifies, in our opinion, nothing more than the public body anticipates the need to discuss the possibility of entering executive session. It also serves not only as a helpful reminder that the public body first needs to vote prior to entering executive session, but also as a courtesy to attendees informing them that there may be a portion of the meeting from which they could be excluded.

How do we make a motion to enter into executive session?

The contents of the motion to enter into executive session depend on the reason for entering that executive session. To enter into executive session for the reasons noted in [1 V.S.A. §§ 313\(a\)\(2\)-\(a\)\(10\)](#), the motion merely needs to identify the topic of discussion and the specific statutory provision that gives authority to enter into such session. We also recommend that you provide in your motion sufficient information without giving away the details that necessitate the executive session. For instance: "Because it is time for our annual evaluation of the town manager, I move that we go into executive session to discuss the evaluation of a public officer or employee under the provisions of [Title 1, Section 313\(a\)\(3\)](#) of the Vermont Statutes."

To enter into executive session for the reasons noted in [1 V.S.A. §§ 313\(a\)\(1\)](#) (listed above, part g), you must make a finding that premature general public knowledge



would place the public body or a person involved at a substantial disadvantage. [1 V.S.A. §§ 313\(a\)\(1\)](#). Therefore, we recommend that you make two separate motions:

The first motion is to find that premature public discussion of the subject would cause the municipality or a person to suffer a substantial disadvantage. For instance, in the case of a contract under negotiation, the motion might be:

“I move to find that premature general public knowledge regarding the town’s contract with ABC Company would clearly place the town at a substantial disadvantage, because the selectboard risks disclosing its negotiation strategy if it discusses the proposed contract terms in public.”

In this hypothetical situation, the “substantial disadvantage” is the risk of losing the competitive edge in the negotiations by talking about the specific contract terms in public. For instance, once ABC Company hears the selectboard talk about the maximum price it can afford to pay, ABC Company may refuse to take anything less than that amount.

The second motion follows from the first and should recite the specific statutory provision that gives authority to enter into such session. For instance:

“I move that we enter into executive session to discuss the town’s contract with ABC Company under the provisions of [Title 1, Section 313\(a\)\(1\)\(A\)](#) of the Vermont Statutes.”

It is important that the minutes show that there was a careful analysis of the need to enter into executive session before the first motion was made. The Vermont Supreme Court has stated:



"It is not unworkable for a public body to make a careful analysis of need before deciding to go into executive session. In fact, in the absence of a case-by-case determination, the legislative policy of openness would be frustrated by the impossibility of describing in categorical terms, without being over-inclusive, the permissible subjects of executive sessions. The exercise of judgment is inevitable."
Trombley v. Bellows Falls Union High School Dist. No. 27, 160 Vt. 101, (1993).

Given the Court's opinion in *Trombley*, the first motion described above should only be made after a discussion (careful analysis) in general terms (otherwise the purpose of entering executive session would be defeated) of why "premature general public knowledge would clearly place the public body, or a person involved at a substantial disadvantage."

Who has the right to attend an executive session?

Only selectboard members have the right to attend an executive session. Whether anyone else is allowed to attend is up to the discretion of the selectboard. "Attendance in executive session shall be limited to members of the public body, and, in the discretion of the public body, its staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed." [1 V.S.A. § 313\(b\)](#).

Can we take action in executive session?



No formal or binding action can be taken in executive session except for actions relating to the securing of real estate options. [1 V.S.A. § 313\(a\)](#).

How do we exit executive session?

Act 51 (2025) requires a public body to vote, by a majority of those present, to conclude executive session. In effect, this will require the body to resume open session to take action, proceed with the agenda, or close the meeting. While minutes are not required for executive session, we recommend including the motion to conclude executive session in the meeting minutes.

Violations of the Open Meeting Law

What are the consequences of violating the Law?

Either the Attorney General or "any person aggrieved by a violation of the law" can bring an action in Superior Court for injunctive relief or declaratory judgment. Prior to instituting such action, the Attorney General or person must provide the public body with written notice of the alleged violation and an opportunity to



"cure" that violation.

A municipality must post on its website (if it maintains one):

- an explanation of the procedures for submitting notice of an Open Meeting Law violation to the public body or the Attorney General; and
- a copy of the text of [1 V.S.A. § 314](#).

In addition, a person who knowingly and willfully violates the Open Meeting Law, or who knowingly and willfully violates the Open Meeting Law on behalf of or at the behest of a public body, or who knowingly and intentionally participates in the wrongful exclusion of any person or persons from any relevant meeting may be guilty of a misdemeanor, punishable with a fine up to \$500. [1 V.S.A. § 314\(a\)](#).

What must the public body do if it receives written notice of an alleged violation of the Law?

Immediately contact your town attorney or the Municipal Assistance Center! A public body must respond publicly within ten calendar days after receiving written notice alleging a violation. Logistically, this means that it must immediately call a special meeting if a regularly- scheduled meeting does not fall within this timeframe and provide adequate notice and warning of that meeting, including an agenda.



During the meeting, the body should publicly discuss the situation and determine whether there was an inadvertent violation of the law. Based on this determination, it should issue a statement that either denies the allegation and states that no cure is necessary, or acknowledges that there was an inadvertent violation that will be cured within 14 calendar days. The public body should not publicly acknowledge a violation that is anything other than "inadvertent" without specific legal advice to do so.

Failure to respond to the allegation within ten calendar days is treated as a denial. [1 V.S.A. § 314\(b\)](#). In the event that the public body is sued for a violation of the law the court will assess attorneys' fees and costs based in part on whether there was a timely response to a notice of violation. [1 V.S.A. § 314\(d\)](#).

Can anyone sue the municipality for an alleged violation of the law?

No. Only a person "aggrieved by a violation" of the law has the legal right to bring a lawsuit against the municipality. (This is known as the legal principle of "standing.") According to the Vermont Supreme Court, "a generalized harm to the public" is not a sufficient injury to establish standing . . . For standing, plaintiffs must present a real—not merely theoretical—controversy involving the threat of actual injury to a protected legal interest rather than merely speculating about the impact of some generalized grievance." *Severson v. City of Burlington*, 2019 VT 41, ¶ 10, 210 Vt. 365 (citing *Brod.*, 2007 VT 87, ¶ 9). In other words, an "aggrieved" person must themselves have suffered some specific harm to a legally protected



interest of theirs as a result of the alleged violation. A generalized harm to the public in and of itself will not suffice.

How does an aggrieved person sue a municipality for an alleged violation of the law

The aggrieved person must first give the public body a chance to respond to the allegation of violation. After the public body issues an acknowledgement or denial of the alleged violation, and after allowing 14 calendar days for the body to cure the violation, either the Attorney General or any person aggrieved by the alleged violation may bring suit against the public body in Superior Court. Such a suit must be brought within one year from the date of the alleged violation. [1 V.S.A. § 314\(a\)](#).

Is the public body liable for attorneys' fees if it is sued for a violation of the law?

The law is unclear on this point. It states that a public body is not liable for attorneys' fees arising from litigation over an inadvertent violation of the law that is cured by the public body. [1 V.S.A. § 314\(b\)\(1\)](#). However, the law also allows a court to assess attorneys' fees against a public body found to have violated the law. Before making this assessment, however, the court must consider whether



the public body had a reasonable basis in fact and law for its position and that it acted in good faith, which includes responding to the notice of violation in a timely manner. [1 V.S.A. § 314\(d\)](#).

When does the clock start ticking? When has the public body “received” an allegation of violation?

Receipt of a complaint or allegation starts the ten-calendar day timeline for response. Unfortunately, the statute does not define when the “receipt” takes place. We therefore advise that you take the most conservative approach and consider that the public body has received an allegation when any member of the public body, or any municipal official who acts in an administrative capacity for the public body, receives a written complaint or allegation of violation. At that point, the public body has ten calendar days in which to respond.

How does the public body “cure” an inadvertent violation?

An inadvertent violation must be cured within 14 calendar days after a public body acknowledges an inadvertent violation. An inadvertent violation is cured when the public body either ratifies or declares as void, any action taken at or resulting from a meeting that was not noticed in accordance with the Law; or a meeting that a person or the public was wrongfully excluded from attending; or



an executive session or portion thereof that was not authorized under the Law. The public body must also adopt specific measures to prevent future violations of the law. [1 V.S.A. § 314\(b\)\(4\)](#). Such measures should be geared toward addressing the particular violation and might include, for example, training regarding the requirements of the Open Meeting Law, or implementation of internal procedures to assist the public body in future Open Meeting Law compliance, such as VLCT's Model Rules of Procedure,

Public Comment

Does the public have the right to speak at our meetings?

Yes, in most instances. The Open Meeting Law states that, "(a)t an open meeting, the public shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting, as long as order is maintained. Public comment shall be subject to reasonable rules established by the chairperson." [1 V.S.A. § 312\(h\)](#). The VT Supreme Court has also said that the Open Meeting Law protects not only the public's "right-to-know" about a meeting but also its "right to be present, to be heard, and to participate." *State v. Vt. Emergency Bd.*, 136 Vt. 506 (1978). This right, however, does not extend to all meetings; the law also says that this right does not apply to quasi-judicial proceedings. These are situations where a public body (e.g. selectboard or



development review board, etc.) is acting like a judge or jury in that it takes evidence or testimony and then weighs, examines, and discusses the reasons for or against an act or decision based on that evidence. Examples include tax appeal hearings before the board of civil authority; vicious dog hearings and employment termination hearings before the selectboard; and land use development and subdivision hearings before appropriate municipal panels. The Open Meeting Law, therefore, affords members of the public the right to attend quasi-judicial hearings, but not the right to participate (i.e. comment) in them. Participation in quasi-judicial proceedings is generally limited to interested parties whose individual rights are at stake.

When can the public speak?

While the law clearly establishes a public right of participation, that right has limits. The public is only entitled to a "reasonable opportunity to express its opinion" and that "reasonable opportunity" can be limited in scope to "matters considered by the public body during the meeting" and is permitted only "as long as order is maintained." While a public body would be perfectly within its rights under the Open Meeting Law to limit public comment to only those items listed on its meeting agenda, it's not a very politically viable option. That approach would not be responsive to the needs and concerns of your community, as it creates a barrier preventing the public from bringing to your attention issues of importance to them.



Allowing public comment on each agenda item after it's discussed but before taking action will help your body make more informed decisions while simultaneously impressing upon the public the value of their comments. In addition, we recommend that your body also dedicate a more open-ended opportunity for public comment under the heading of "other business" either towards the beginning or end (or both) of your meetings as a best practice.

What constitutes a "reasonable opportunity" for the public to express its opinion at your meetings?

The law does not set forth a specific timeframe for public comment, so the standard is one of reasonableness. The time that must be allowed for public comment is likely a function of whether there is ample opportunity for someone to make their point or express their opinion on an agenda item. This means that the standard will also necessarily be a function of how many people would like to comment. The less people in attendance, the more individual time can be provided for public comment while still affording ample opportunity for the public body to conduct its business and vice versa. However, providing the public with a "reasonable opportunity" to comment does not mean that everyone in attendance must be given a chance to speak. Specifying how much time will be dedicated to public comment on a particular topic beforehand in the agenda is helpful in terms of managing the public's expectations and managing the length of your meetings. Our Model Rules of Procedure for Municipal Boards leaves this provision blank to provide public bodies with the flexibility to alter this standard,



as needed.

Can the public say whatever it wants at your meetings?

No. The Open Meeting Law only gives the public the unqualified right to comment on those matters considered by your public body during its meeting. This will necessarily be determined by what items are up for discussion or action as listed on your meeting agenda. Of course, public bodies are encouraged to allow for more opportunities for public comment beyond just those items listed on its agenda. In doing so, its rules of procedure should specify that such comments are limited to the business of the public body, which are its governmental functions, including any matter over which the public body has supervision, control, jurisdiction, or advisory power. Your meetings, after all, are meetings “in” the public, not meetings “for” or “of” the public. They represent opportunities for your public body to discuss and do its work. While the public body must allow the public to comment on its business, it does not have to allow people to engage in whatever type of speech they want, whenever they want.

Notably, the Open Meeting Law also recognizes the importance of order by limiting public participation to the imposition of reasonable rules. “Public comment shall be subject to reasonable rules established by the chairperson.” [1 V.S.A. § 312\(h\)](#). This represents a compromise between the need for public comment with the need for a public body to do its work. Public bodies may impose restrictions on public comment in light of the purposes served by its



meetings, so long as the restrictions are reasonable, viewpoint and content neutral, and applied equally to everyone. Viewpoint and content neutral mean the restrictions don't limit what someone is saying because of the opinion or message they're conveying. Public bodies should use their rules of procedure to strike a balance between encouraging public comment and allowing for the efficient operation of its meetings by managing time, safeguarding orderly proceedings, ensuring proper decorum, and maintaining order.

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