



Open and Public Meetings Act Policy

Merit Preparatory Academy

References: Title 52, Chapter 4 of the Utah Code

PURPOSE:

To set the standards for meetings of the board of trustees, to ensure that the board deliberates in an open public process and takes action openly in order to do the business of the public, in the view of the public and in accordance with Utah law.

DEFINITIONS:

Anchor Location: means the physical location where the board of trustees normally conducts its meetings.

Chance Gathering: A coincidental gathering of school board members is not a “meeting” for purposes of the statute. The members may not use this chance gathering to discuss board matters and thereby evade notice and open meeting requirements.

Convened: A meeting is “convened” when:

1. The school board is called together; and
2. The person calling the meeting is authorized to do so; and
3. The meeting is called for the specific purpose of discussing or acting upon matters over which the board has jurisdiction.

Meeting: A group of board members is considered in a meeting if:

1. The board has been convened; and
2. A quorum is present; and
3. They have assembled in person or are communicating by telephone or other electronic equipment; and
4. They have assembled to discuss, receive public comment about, or act upon matters over which the board has jurisdiction or advisory power.

Public Body: The board of trustees when meeting together to discuss business of the school.

Quorum: A simple majority of the members of the school board.

Social Gathering: a chance meeting or an event attended by members of the board of trustees, that is not for the purpose of discussion, receiving public comment about or acting upon a matter over which the board of trustees has jurisdiction or advisory power.

POLICY:

Public Notice

The school board must give at least 24 hours' notice of a meeting. The notice shall include:

- a). The agenda,
- b). The date, time, and place of each of its non-emergency meetings.

A written notice must be posted at

- a). The main office of the school board or at the building where the meeting will be held;
and
- b). Posted on the Utah Public Notice Website

The Agenda

The agenda provided with the public notice must be reasonably specific about the topics to be considered during the meeting, and each topic to be considered must be listed under an agenda item on the meeting agenda. Unless the meeting is an emergency meeting the board may not take final action on any topic which is not listed in the agenda and included in the advance public notice of the meeting. At the discretion of the presiding officer, if during the meeting a topic is raised by a member of the public which is not listed on the agenda, the board may discuss the topic, but may not take any final action on the topic.

Emergency Meetings

Occasionally, unforeseen circumstances make it necessary for a school board to hold a special meeting to consider matters of an emergency or urgent nature. In these circumstances, the 24-hour notice requirement may be disregarded and the board may give "the best notice practicable" of the time and place of the meeting and the topics to be considered. Before a school board can hold an emergency meeting, there must be an attempt to notify all board members, and a majority of the board must approve holding the emergency meeting.

Recording Keeping Requirements of Open Public Meetings

Written minutes must be kept and a recording must be made of all school board meetings, with one exception. Only written minutes must be kept for site visits or traveling tours of the board

where no vote or action is taken by the board. A recording can be an audio recording or an audio and video recording.

1. The written minutes of open meetings must include the following:
 - a. The date, time, and place of the meeting; and
 - b. The names of all members present and absent; and
 - c. The substance of all matters proposed, discussed, or decided, which may include a summary of comments by board members; and
 - d. A record, by individual member, of all votes taken
 - i. The record of votes contained in the minutes must record each vote in list format, by each member's name and by category for each action taken by the member.
 - e. The name of each person who is not a Board member who was recognized by the presiding Board member and upon recognition presented testimony or comments to the Board and a brief summary of the public testimony or comments; and
 - f. Any other information that is a record of the meeting proceedings that any member requests be entered in the minutes.
2. The open meeting audio or video recording must meet the following requirements:
 - a. Must be a complete and unedited recording of all open portions of the meeting from the commencement of the meeting through the adjournment of the meeting; and
 - b. Must be properly labeled and identified with the date, time, and place of the meeting.
 - c. A digital audio recording must be made of a board meeting for public comment on a proposed tax increase or bond measure.

The written minutes of open meetings are public records.

1. Approved board minutes must be posted to the Utah Public Notice Website within three business days after approval.
2. They must also be made available at the board's main office.
3. If the board elects to link minutes to the meeting recording, those linked minutes and the meeting materials must also be posted to the school's website.
4. Before formal approval, meeting minutes are "pending minutes."
 - a. Pending minutes are public records; and
 - b. must be made available to the public within 30 days after the meeting.
 - c. Pending minutes must be marked as "awaiting formal approval" or "unapproved" or with some other notice that they are subject to change until approved.

The recording of an open board meeting is a public record; and

1. The recording must be made available to the public for listening within three business days after the end of the meeting.
2. Any person in attendance may make his or her own recording of an open meeting as long as the recording does not interfere with the conduct of the meeting.

Meeting Location

The board is generally free to hold its meetings wherever, within the geographic boundaries of the school, it determines is advisable, as long as the public is informed. Certain exceptions need to be followed in accordance with 52-4-201 (2)(b).

Closed Meetings

School boards may choose to hold closed meetings if the following voting, purpose, and record-keeping requirements are met:

A. To hold a closed meeting, the school board must satisfy the following voting requirements:

1. A quorum must be present at the open meeting where the vote is taken; and
2. Two-thirds of the members of the school board who are present must vote in favor of holding a closed meeting; and
3. The vote must be taken in an open meeting for which the proper public notice has been given; and
4. The following information must be publicly announced and entered on the records of the open meeting where the closed meeting is approved:
 - a. the reason or reasons for holding the closed meeting;
 - b. the location where the closed meeting will be held;
 - c. the vote, by name, of each member of the board either for or against the motion to hold the closed meeting.

B. A school board may hold a closed meeting only for one or more of the following purposes:

1. Discussion of the character, professional competence, or physical or mental health of an individual;
2. Strategy sessions to discuss collective bargaining;
3. Strategy sessions to discuss pending or reasonably imminent litigation;
4. Strategy sessions to discuss the purchase, exchange, or lease of real property (including water rights or shares) when public discussion would disclose the value of the property or prevent the school board from completing the transaction on the best possible terms;
5. Strategy sessions to discuss the sale of real property (including water rights or shares) when:
 - a. Public discussion of the transaction would disclose the value of the property or prevent the board from completing the transaction on the best possible terms; and

- b. The board has previously given notice that the property would be offered for sale; and
 - c. The terms of the sale are publicly disclosed before the board approves the sale;
6. The following procurement functions:
- a. Board deliberations (not including information gathering activities) when the board is acting as either:
 - i. an evaluation committee during the process of evaluating responses to a procurement solicitation, or
 - ii. a protest officer during the process of making a decision on a procurement protest;
 - b. Consideration of trade secret information, if that is necessary for the board to properly conduct a procurement; or
 - c. Discussion of information provided to the board during a procurement process if, at the time the board meets, the information may not be disclosed to the public or to a procurement participant and the board needs to review or discuss the information to properly fulfill its role and responsibilities relating to procurement;
7. Discussion regarding deployment of security personnel, devices, or systems; or
8. Investigative proceedings regarding allegations of criminal conduct.

C. Record Keeping of a Closed, Executive Session:

1. No recording or other minutes need to be kept if a closed meeting is held to discuss the character, professional competence, or physical or mental health of an individual or to discuss the deployment of security personnel, devices, or systems.
 - a. The person presiding at the meeting must sign a sworn statement affirming that this was the sole purpose of the closed meeting.
2. If the closed meeting is held for any other purpose, the school board must record the closed meeting and may also keep detailed written minutes that disclose the content of the closed meeting. Recordings shall include:
 - a. The date, time, and place of the meeting; and
 - b. The names of all board members present and absent; and
 - c. The names of all others present except where such disclosure would infringe on the confidence necessary to fulfill the original purpose of closing the meeting.
 - d. When a closed meeting is recorded, the recording must be a complete and unedited recording of all portions of the closed meeting.

No ordinance, rule, regulation, contract, or appointment may be approved in a closed meeting, and the only vote which may be taken in a closed meeting is a vote to end the closed meeting and return to an open meeting.

Electronic Meetings

The board of trustees may hold an electronic meeting because it has previously adopted a policy regarding such meetings.

1. Any votes taken in an electronic meeting must be taken by roll call unless the vote is unanimous.
2. The regular open meetings notice requirements and quorum requirements must be met for an electronic meeting.
3. Written notice of the electronic meeting must be posted at an “anchor location” of the electronic meeting unless the requirements for holding an electronic meeting without an anchor location are met.
 - a. An electronic meeting may be held without an anchor location if:
 - i. The board president makes a determination that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who would otherwise be present at the anchor location, or
 - ii. makes a determination that the location where the board would normally meet has been ordered closed to the public for health or safety reasons.
 - b. The public notice of the electronic meeting without an anchor location must include a statement describing the determination and summarizing the facts on which it is based and must inform members of the public how they may attend the meeting remotely by electronic means.
4. The open meetings law also requires that board members be given at least 24 hours’ advance notice of how board members can electronically connect to the meeting.
5. The anchor location must provide space and facilities to permit members of the public to attend and monitor the meeting.
6. The board may also choose to provide means for members of the public to attend remotely by electronic means.
7. When an electronic meeting with an anchor location is in progress and the board has already provided means by which members of the public may attend remotely, the meeting may be changed to a meeting without an anchor location, if the board president makes a determination that continuing the meeting with an anchor location presents a substantial risk to the health or safety of those present at the anchor location.
 - a. The president shall announce that determination during the meeting and state a summary of the facts on which the determination is made.

Public Participation in an Open Public Meeting of the Board of Trustees

The public will be invited to participate in a regular board meeting through public comment.

Members of the public must

1. Sign up in advance of the public comment time in order to make a comment.
2. Restrict their comments to three minutes.
3. Adhere to the following procedure and rule:
 - a. Grievances, complaints, or concerns with individual employees or board members will not be allowed during this time as they must be dealt with by following the Conflict Resolution Policy process, and
 - b. Defamatory statements regarding any individual will not be allowed during an open public meeting.
4. Total public comment time will be restricted to 15 minutes