



**PART 1:**

# FOUNDATIONS OF THE OPEN MEETING LAW



## PRESENTED BY:

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## MINNESOTA OPEN MEETING LAW

SLIDE 3



- Minnesota Statutes Chapter 13D
- Promotes transparency in government
- Presumes all meetings of a public entity's governing body are open to public unless governing body has statutory authority to close meeting



## PURPOSE OF THE OPEN MEETING LAW

SLIDE 4



- Prohibit actions from being taken at secret meetings where it is impossible for public:
  - To become fully informed about a public body's decision
  - To detect improper influences
- To assure public's right to be informed
- To afford public opportunity to present its views to public body



## INTERPRETING THE LAW

SLIDE 5

- Minnesota Supreme Court and Court of Appeals opinions
- Advisory opinions from the Minnesota Department of Administration



# APPLICATION

Foundations of the Minnesota Open Meeting Law



APPLIES TO MEETINGS OF THESE GOVERNING BODIES

- School district however organized
- Unorganized territory
- **County**
- Statutory or home rule charter city
- Town
- **Other public body**



SLIDE 7



'OTHER PUBLIC BODY'



SLIDE 8



APPLIES TO MEETINGS OF PUBLIC BODY'S:



- Committees
- Subcommittees
- Boards
- Departments
- Commissions

SLIDE 9



WHAT IS A "MEETING" UNDER THE OPEN MEETING LAW?



Meeting of a quorum or more of the members at which members discuss, decide or receive information as a group on issues relating to the official business of that governing body

SLIDE 10



## WHAT CONSTITUTE SA "MEETING"?

SLIDE 11



- All meetings of public body as a whole
- Committees or subcommittees when:
  - Public body members comprise a quorum of the committee or subcommittee; or
  - Public body delegated authority to committee or subcommittee



## BEST PRACTICE: Annually Evaluate Committees

SLIDE 12

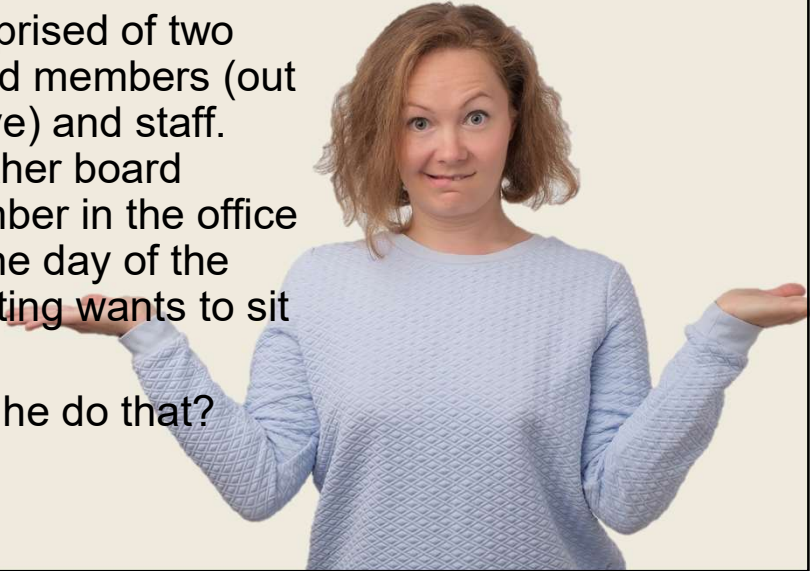
- Is committee made up of quorum of board members?
- Has board delegated powers to committee?
- Has board informally delegated power to committee?
  - Does committee have capacity to act on behalf of the board?
  - Are committee's decisions binding on the full board?
  - Does full board act on committee recommendations without full discussion and deliberation?
  - Is committee making policy decisions on behalf of the board?
  - Is committee limiting information that is shared with the board?



COMMON QUESTION ABOUT COMMITTEES

SLIDE 13

**Q:** Our entity has a committee comprised of two board members (out of five) and staff. Another board member in the office on the day of the meeting wants to sit in. Can he do that?



COMMON QUESTION ABOUT COMMITTEES

SLIDE 14

**A:** With a third board member attending, a quorum is now present. The committee meeting now becomes a full meeting of the board.





## APPLIES TO INFORMATION SESSIONS

SLIDE 15

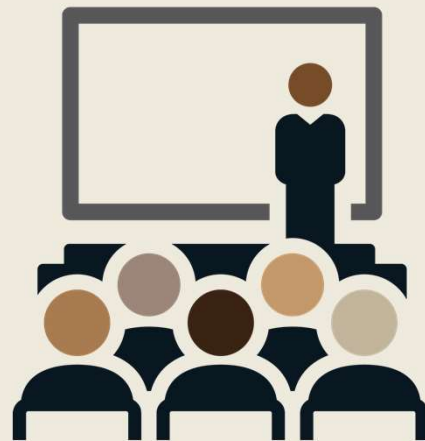
- Applies to informational gatherings, e.g.:
  - Retreats
  - Executive sessions
  - Public hearings
  - Work sessions on matters currently facing or might come before the body
  - Road tours
  - Site visits
- Official action is not necessary to be a meeting



## GENERAL TRAINING PROGRAMS

SLIDE 16

**Minnesota Attorney General:**  
Attendance at training programs designed for board members or officials in general does not violate the law if the members do not discuss specific municipal business





## SOCIAL GATHERINGS

SLIDE 17



- Does not apply to quorum that gathers by chance or at a social event
- Quorum **may not** discuss or receive information about official business
- Keep public perception in mind



## QUESTION ABOUT LUNCH

SLIDE 18

**Q:** Our board goes for lunch at a local restaurant after the board meeting. Is this permitted under the Open Meeting Law?





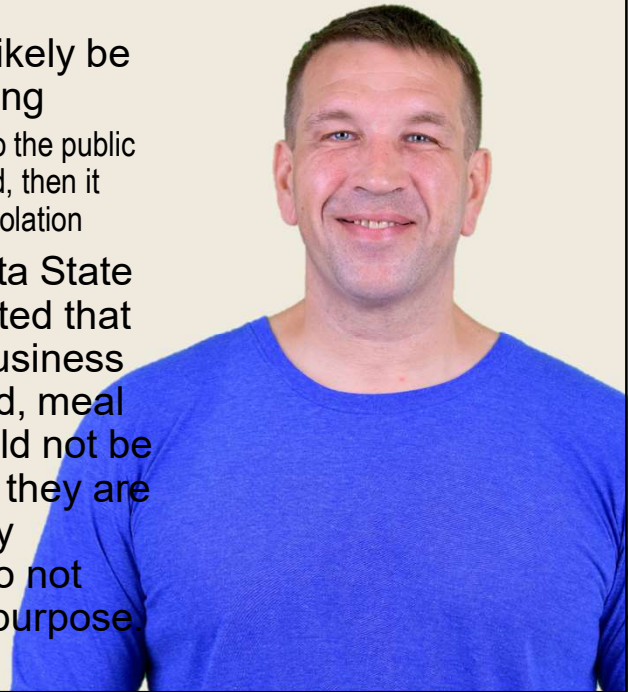
## QUESTION ABOUT LUNCH

SLIDE 19

**A:** This would likely be a social gathering

- If matters relating to the public entity are discussed, then it could be an OML violation

**Note:** Minnesota State Auditor has stated that where public business is not discussed, meal expenses should not be reimbursed, as they are not a necessary expense and do not serve a public purpose.



## SERIAL MEETINGS

SLIDE 20

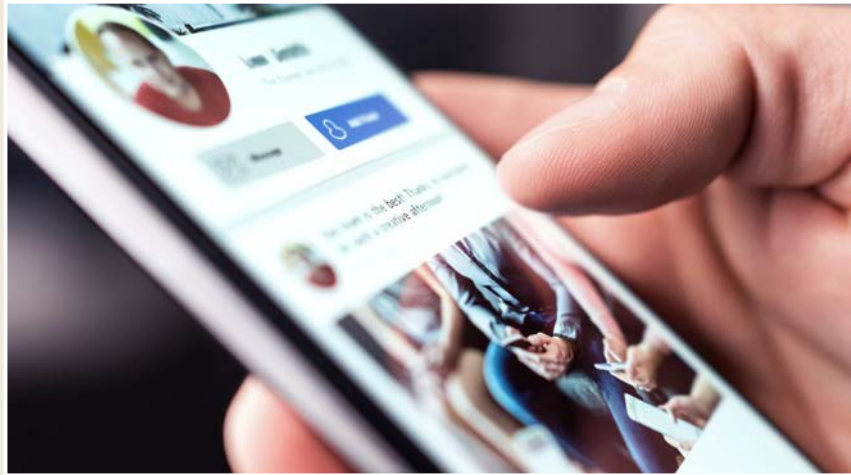
- OML typically does not apply to
  - Conversations
  - Written communication ...between less than quorum of governing body
- Meetings of less than quorum **may violate** law if:
  - Held to avoid public discussion altogether
  - To forge majority in advance of public hearings, or
  - To hide improper influences





## SOCIAL MEDIA USE BY PUBLIC BODY MEMBERS

SLIDE 21



Does not violate OML so long as social media use is limited to exchanges with all members of general public

# NOTICE REQUIREMENTS

Foundations of the Minnesota Open Meeting Law



## MEETING TYPES

SLIDE 23

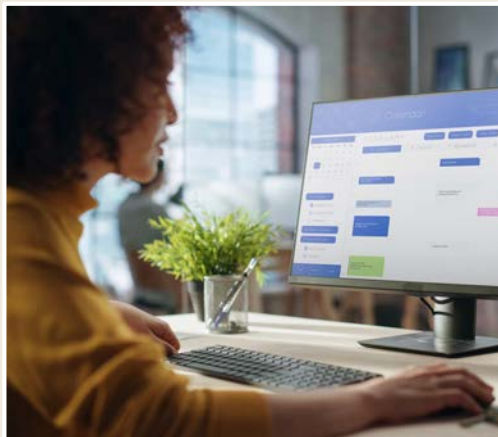


- Regular meetings
- Special meetings
- Emergency meetings
- Recessed and continued meetings



## REGULAR MEETINGS

SLIDE 24



- Conducted routinely or on a prescribed schedule
- Schedule must be
  - Kept on file at primary office
  - Include times, locations
- If a meeting time, location changes from schedule, must give notice of changes in same manner as a special meeting



QUESTION:  
REGULAR  
MEETING  
CHANGES

SLIDE 25



**Q:** The board's usual meeting room flooded the day of the board meeting.

If we move the meeting to another room in the same building, do we still have to give notice as if it were a special meeting?



QUESTION:  
REGULAR  
MEETING  
CHANGES

SLIDE 26

**A:** If the date, time and/or place of the regular meeting changes, special meeting notice requirements apply





## SPECIAL MEETINGS

SLIDC 27



Meetings not conducted as part of the normal routine but planned far enough in advance to be scheduled



## SPECIAL MEETING NOTICE REQUIREMENTS

SLIDC 28

### Notice provided at least 3 days before meeting

- Posted with date, time, place, purpose of meeting
- On principal bulletin board
- If no bulletin board, door of usual meeting room
- And mailed or delivered to people who have filed written request for special meeting notices
  - Alternative to mailing, delivering: May publish notice once in official newspaper or if none, qualified newspaper of general circulation within area of public body's authority at least 3 days prior to special meeting





## WRITTEN REQUESTS FOR SPECIAL MEETING NOTICES

SLIDE 29

- Requestor may limit request to notification of meetings concerning particular subjects
- Public body may establish expiration for special meeting notices and require refiling once each year
- If expiration date is established, public body must send notice for refiling no more than 60 days before expiration date



## IMPORTANT: Purpose of the Meeting

SLIDE 30



Topics of discussion at special meeting are limited to purpose of special meeting in the notice



## EMERGENCY MEETINGS

Meeting called because of circumstances that, in public body's judgment, require immediate attention



SLIDE 31



## WHAT CONSTITUTE S AN EMERGENCY ?



- Open question not yet determined by appellate courts
- Department of Administration: “emergency meetings should be **used rarely and for circumstances where public safety is jeopardized.**”

SLIDE 32



## EMERGENCY MEETING NOTICES

SLIDE 33

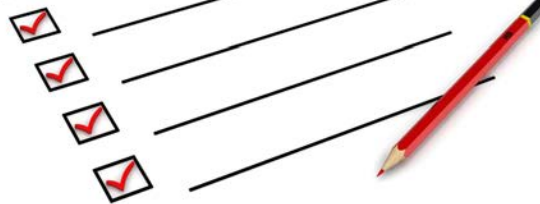
- Posted or published notice of emergency meeting is not required
- Good faith effort to notify news media that has filed written request with phone number
- Notice to news media must be provided as soon as practicable after notice of emergency meeting has been given to members of public body



## EMERGENCY MEETING TOPICS NOT LIMITED

SLIDE 34

### MEETING TOPICS



- Notice must include subject of meeting
- Topics not limited to those on notice
- If matters not directly related to the emergency are discussed, minutes must include a specific description of the matters



## RECESSED AND CONTNUED MEETINGS

SLIDC 35



- Meetings that are a continuation of a previous meeting
- Includes required public hearings
- No published or mailed notice is required so long as time, place of meeting was established during previous meeting and recorded in meeting minutes



## ACTUAL NOTICE

SLIDC 36



If person receives actual notice of a meeting of a public body at least 24 hours before the meeting, all notice requirements of this section are satisfied with respect to that person, regardless of the method of notice

# MEETING PROCEDURES

Foundations of the Minnesota Open Meeting Law



## RECORD OF VOTES

- Public body must record all votes on actions taken at open meetings in a journal or minutes
- Vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute



- Journal or any minutes must be open to public during all normal business hours where records are kept



## PUBLIC COPY OF MEETING MATERIALS

SLIDE 39

At least 1 copy of printed materials relating to agenda items that were prepared or distributed by or at direction of governing body or its employees and

1. Distributed at meeting to board members
2. Distributed before meeting to board members
3. Available in meeting room to board members

must be available for inspection in meeting room while governing body considers subject matter



## MEETING MATERIALS FOR THE PUBLIC

SLIDE 40



### • Does not include:

- Not public data under MGDPA
- Materials for a closed meeting



### • Best practice:

- Collect materials with not public data or distributed at a closed meeting after discussion has ended



## QUESTION ON PRINTED MATERIALS

SLIDE 41



**Q:** Our entity no longer has printed board packets. Instead, everything is provided in an electronic format.

Does this mean we do not have to provide a public copy of meeting materials?



## QUESTION ON PRINTED MATERIALS

SLIDE 42

**A:** A copy of the materials provided to the board should be available for inspection, even if they are only in an electronic form





## RECORDING OPEN MEETINGS

SLIDE 43



- Policy decision
- Considerations:
  - Records retention
  - Minnesota Government Data Practices Act
  - Accessibility laws and regulations

# ENFORCEMENT, PENALTIES AND COVERAGE

Foundations of the Open Meeting Law



## ENFORCEMENT AND PENALTIES

SLIDE 45

- Individuals may be personally fined
  - Up to \$300 for each intentional violation found by the court
  - Fines may not be paid by the public body
- If found to have intentionally violated law in 3 or more separate, unrelated actions involving same governing body
  - Person may forfeit any further right to serve on the board, or
  - In any capacity with the public body for a period



## COSTS AND ATTORNEY FEES

SLIDE 46

- Court may award costs, disbursements, attorney fees up to \$13,000 to claimant
- Public body may choose to indemnify board member(s) for these expenses
- Monetary penalties, attorney fees awarded only if intent to violate is found



## MCIT COVERAGE

SLIDC 47

- Pays defense attorney fees, defense costs associated with defending an OML claim:

- Excludes fines imposed under OML
- Excludes costs, disbursements, attorney fees awarded to claimant



## IF QUESTIONS ARISE

SLIDC 48



- Consult with legal counsel
- Review MCIT Open Meeting Law resources
  - [MCIT.org/resources](https://mcit.org/resources)
- Check with Minnesota Department of Administration, Data Practices Office:
  - [MN.gov/admin/data-practices](https://mn.gov/admin/data-practices)

# DISCUSSION

Submit Questions Now



OPEN  
MEETING  
LAW  
WEBINAR  
SERIES



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