



PART 2:

CLOSING MEETINGS UNDER THE OPEN MEETING LAW



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The information contained in this document is intended for general information purposes only and does not constitute legal or coverage advice on any specific matter.



MINNESOTA OPEN MEETING LAW

SLIDE 3



- Minnesota Statutes Chapter 13D
- Promotes transparency in government



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



STATUTORY AUTHORITY

Closing Meetings Under the Open Meeting Law



GENERAL OML PRESUMPTION

SLIDE 7



Presumes all meetings of a public entity's governing body are open to public unless governing body has statutory authority to close meeting



STATUTORY AUTHORITY

SLIDE 8



- Minnesota Open Meeting Law
 - Minn. Stat. §13D.05 Meetings Having Data Classified as Not Public
 - Minn. Stat. § 13D.03 Closed Meetings for Labor Negotiations Strategy
- Other statute or legislation



DISCUSSING NOT PUBLIC DATA

SLIDE 9



- Unless required to be closed, not-public data may be discussed at an open meeting if the disclosure:
 - Relates to a matter within the scope of the public body's authority
 - Is reasonably necessary to conduct the business or agenda item before the public body
- Any data discussed retains its original classification

PROCEDURES FOR CLOSING A MEETING

Closing Meetings Under the Open Meeting Law



NOTICE REQUIREMENTS

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- Notice requirements depend on type of meeting
 - Regular
 - Special
 - Emergency
 - Recessed and continued
- When applicable, all remote participation requirements must be complied with



CLOSING A MEETING

SLIDE 12



A statement closing the meeting must be made in open session:

- Reference applicable statutory provision
- Describe subject to be discussed
- Any other statutory requirements



CLOSING TO DISCUSS NOT PUBLIC DATA

SLIDE 13



- Identify the general classification or type of private data that will be discussed
- Unless required, do NOT identify any individual either by name or position



SUBJECT MATTER LIMITED

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Discussion in the closed meeting must be limited to the subject of the closing



CLOSED SESSION MATERIALS

SLIDE 15



Withhold any materials discussed in closed session from public

RECORDING CLOSED MEETINGS

Closing Meetings Under the Open Meeting Law



RECORDING CLOSED MEETINGS

All closed meetings must be recorded, except meetings closed under attorney-client privilege



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RETAINING RECORDINGS



- Recordings must be preserved for at least three years, unless another period is provided by an existing law
- Access to a recorded closed meeting is governed by Open Meeting Law and Minnesota Government Data Practices Act

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MEETINGS THAT MUST BE CLOSED

Closing Meetings Under the Open Meeting Law



PRELIMINARY
CONSIDERATION
OF
ALLEGATIONS



Preliminary consideration of allegations or charges against an individual subject to the board's authority

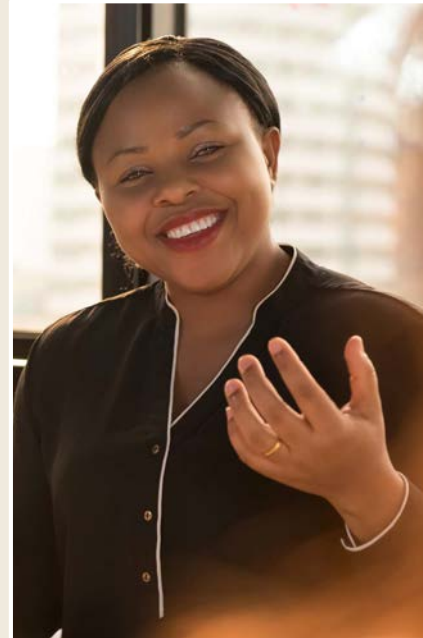
SLIDE 20



ADDITIONAL REQUIREMENTS

SLIDE 21

- Consult with legal counsel prior to the meeting
- Meeting must be open if individual who is subject of allegations/charges requests it to be
- If body concludes that discipline may be warranted as a result, further meetings relating to the specific allegations/charges held after that conclusion is reached must be open



DISCUSSION OF IDENTIFYING DATA

SLIDE 22



Data identifying alleged victims or reporters of:

- Criminal sexual conduct
- Domestic abuse
- Maltreatment of minors or vulnerable adults



DISCUSSION OF CERTAIN LAW ENFORCEMENT DATA

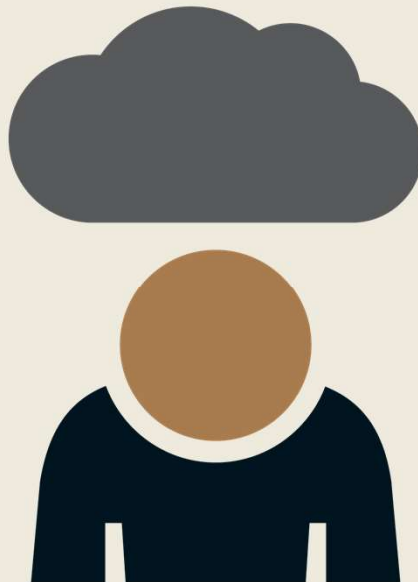


- Active criminal investigation data as defined in Minnesota Statutes, Section 13.82, Subd. 7
- Internal affairs data relating to allegations of law enforcement personnel

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DISCUSSION OF CERTAIN NOT PUBLIC DATA



- Educational data (Minn. Stat. § 13.32)
- Health (Minn. Stat. § 13.3805, subd. 1)
- Medical (Minn. Stat. § 13.384)
- Welfare (Minn. Stat. § 13.46, subd. 7)
- Mental health (Minn. Stat. § 13.46, subd. 2)

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CERTAIN MEDICAL RECORDS

An individual's medical records governed by Minnesota Statutes, Sections 144.291 to 144.298



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OTHER LAW



Must be closed if expressly required by other law

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MEETINGS THAT MAY BE CLOSED

Closing Meetings Under the Open Meeting Law



PERFORMANCE EVALUATIONS

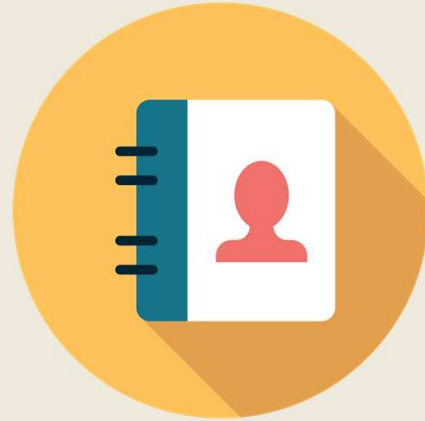


Evaluate the performance of an individual subject to the board's authority



ADDITIONAL REQUIREMENTS

- Must identify individual prior to closing meeting
- Meeting must be open if the individual who is subject of performance evaluation requests it to be
- At next open meeting need to summarize performance evaluation



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ATTORNEY-CLIENT PRIVILEGE



Limited to situations where need for absolute confidentiality outweighs the purposes of the OML

- Must be invoked cautiously
- Generally available in situations related to threatened or pending litigation
- Not general legal advice

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CLOSING UNDER ATTORNEY-CLIENT PRIVILEGE

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When closing, provide specific description of subject to be discussed by

- Stating the nature of pending or threatened claim
- Describing reasons that purposes of attorney-client privilege outweigh Open Meeting Law purposes



REAL OR PERSONAL PROPERTY

SLIDE 32



- To determine the asking price for real or personal property to be sold by entity
- To review confidential or protected nonpublic appraisal data under Minnesota Statutes, Section 13.44, Subdivision 3
- To develop or consider offers or counteroffers for the purchase or sale of real or personal property



WHEN CLOSING FOR REAL OR PERSONAL PROPERTY

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- Before closing, the public body must identify particular real or personal property that is subject of meeting
- List of board members and participants must be made available after closed meeting



RECORDING REAL OR PERSONAL PROPERTY CLOSED MEETING

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- Property must be specifically identified on recording
- Recording must be preserved for 8 years after meeting date
- Recording available after purchase or sale completed or abandoned





AGREEMENTS FOR SALE OR PURCHASE OF PROPERTY

- Agreements made based on offers considered in closed meeting are contingent upon approval in an open meeting
- Once approved, purchase or sale price is public data



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SAFETY AND SECURITY



- To review security briefings and reports
- To discuss issues related to security systems
- To discuss emergency response procedures
- To discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities

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CLOSURE FOR SAFETY AND SECURITY

SLIDC 37



Permitted only when disclosure of information discussed would:

- Pose a danger to public safety
- Compromise security procedures or responses



MEETING MUST BE OPEN FOR THESE REASONS

SLIDC 38



- Discussion of financial issues related to security matters
- All related financial decisions



WHEN CLOSING FOR SECURITY REASONS

- Before closing, the public body must refer to facilities, systems, procedures, services or infrastructure to be considered
- Recording must be preserved for at least 4 years



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OTHER STATUTE



May be closed if expressly authorized by statute

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STRATEGY FOR LABOR NEGOTIATIONS

Closing Meetings Under the Open Meeting Law



MINN. STAT.
§13D.03:
CLOSED
MEETINGS
FOR LABOR
NEGOTIATION
STRATEGY



- Stand-alone section with different requirements
- Permits holding a closed meeting to consider strategy for labor negotiations conducted pursuant to PELRA (Minn. Stat. §§ 179A.01 to 179A.25), including:
 - Negotiation strategies or developments
 - Discussion and review of labor negotiation proposals

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CERTAIN OML SECTIONS DO NOT APPLY

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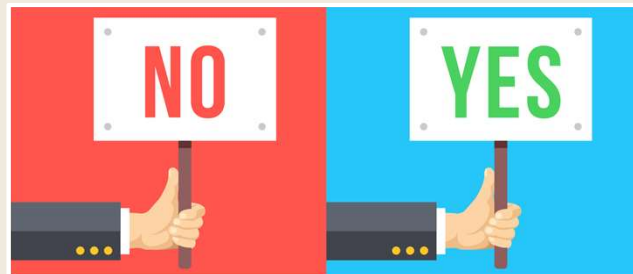


- Section 13D.01, subds. 1, 2, 4 & 5 do not apply to closed meeting
- Remote participation under Section 13D.02 is not permitted



HOLDING A MEETING UNDER §13D.03

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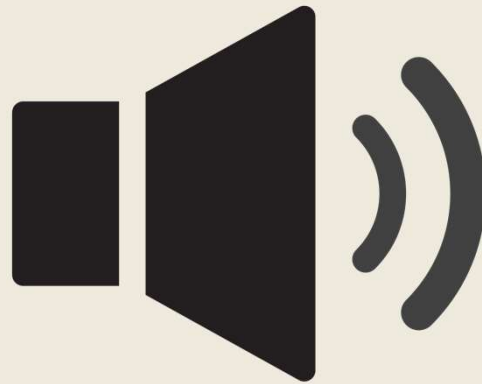


- Decision to hold a closed meeting must be made by majority vote
- Time and place of the closed meeting must be announced at an open public meeting
- Written roll of all attendees at the closed meeting must be available to the public after the closed meeting



MEETING
MUST BE
RECORDED

SLIDE 45



- Recording must be available to the public after all labor contracts are signed for the current budget period
- Recording must be preserved for 2 years after the contract is signed

SEEK ASSISTANCE

Closing Meetings Under the Open Meeting Law



IF
QUESTIONS
ARISE

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- 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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LEARN MORE AT [MCIT.ORG](https://mcit.org)

- Register for live webinars: Events page
- View recorded session: Resource Library