

NEVADA'S OPEN MEETING LAW



- Presented by: Jen Gustafson
- Washoe County District Attorney's Office
 - August 14-15, 2026



Intent of Open Meeting Law (“OML”)

NRS 241.010 sets forth a legislative declaration:

- Public bodies exist to aid in the conduct of the people’s business.
- It is the intent of the OML that board **deliberations** and board **actions** be conducted openly.



When Does the OML Apply?

- In general, OML applies to all meetings of a public body (governmental boards, commissions, committees, subcommittees) at which deliberation takes place and/or action may occur on a subject under the public body's jurisdiction/control/advisory power.



Meeting

NRS 241.015(4)

- In general, a “meeting” is:
 - The **gathering of members** of a public body at which a **quorum** is present to **deliberate** toward a decision or to take **action** on any matter over which the public body has supervision, control, jurisdiction or advisory power.





What is a Quorum?

NRS 241.015(6)

- A simple majority of the public body's membership
 - Non-voting members are (generally) not counted for purposes of determining a quorum
- Or another proportion as required by specific statute
 - If a vacancy occurs for a voting member's position, reduce the quorum & number of votes to take action by the number of vacancies
 - Exceptions: If all members are required to be elected officials OR otherwise provided by statute



Methods of Holding Meetings

- If properly noticed and open to the public, meetings may be held:
 - In person
 - Via “remote technology system” (teleconference or videoconference)
 - Hybrid (both in person & remote option)
 - Exception: If the public body is comprised of all elected officials, a physical meeting space is required.





Special Considerations for Virtual Meetings

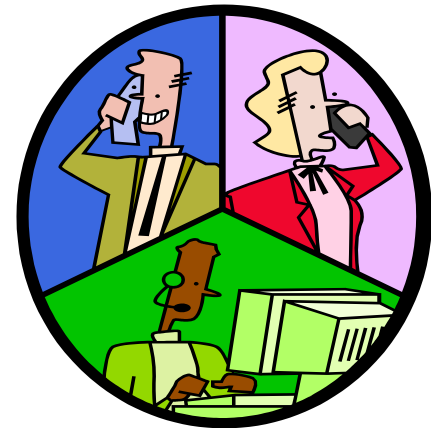
- If using “remote technology system” only, the public must be able to:
 - Hear/observe the meeting
 - Provide live public comment during the meeting
 - Have the option to attend meeting via telephone
 - Requires web-based link + phone number
- Additional Requirements:
 - For virtual meetings only,
“clear and complete” instructions
for how members of the public can
call in and provide public comment
must be read verbally.





Special Note

- A remote technology system or serial electronic communication (emails) must not be used to circumvent the spirit or letter of the Open Meeting Law
 - (NRS 241.016(4))
- So be careful when communicating with other Board members over email!





Watch Out for “Walking Quorum”

NRS 241.015(4)(2)

- If a public body’s members engage in a **series** of gatherings at which:
 - (I) Less than a quorum is present at any individual gathering;
 - (II) But, the members of the public body attending one or more of the gatherings **collectively constitute a quorum**; and
 - (III) The **series** of gatherings was held with the **specific intent** to avoid the OML = **OML violation**



Exception: No deliberation or action (NRS 241.015(4)(b))

- There may be social functions or other gatherings where a quorum of board members are present. These are **NOT** meetings, as long as the members do not deliberate toward a decision (or take action) on any matter over which the public body has supervision, control, jurisdiction or advisory power.
- Don't turn a party into a meeting!
- Also: Watch your breaks during a meeting - No deliberation!



Exception: Attorney-Client Communications

- Quorum of board members may gather to receive **legal advice** from the public body's attorney regarding a matter over which the public body has supervision, control, jurisdiction or advisory power, and to deliberate toward a decision **on the legal advice** = **NOT a meeting**
(NRS 241.015(4)(c))
- E-mail communication with the board's attorney = generally **NOT a meeting**
 - **But do not hit "Reply All"**



Notice of Meeting & Agenda

NRS 241.020

- Drafted by staff
- Content reviewed by Chair & legal (most boards) to ensure that:
 - Notice comports with Open Meeting Law; and
 - Agenda gives “clear & complete” notice to public of topics to be considered & what possible action Board may take (stringent standard).
- Posted at least 3 working days prior to meeting (by 9 a.m.):
 - Principal office of public body OR building at which meeting is to be held
 - Websites (public body website & state noticing website)
- Mailing
 - Subscription - mail or email





Notice of Meeting & Agenda, cont.

- Types of Agenda items:
 - [Non-action item] = Informational Discussion
 - [For possible action] = Deliberation OR Action
 - Deliberation:
 - Collectively examining, weighing and reflecting upon the reasons for or against an act
 - Includes collective exchange of facts preliminary to ultimate decision
 - Action:
 - Decision; commitment or promise; affirmative vote





Action—Voting Minimums

- If a public body may have a member who is **not an elected official**, an affirmative vote taken by a **majority of the members present** during a meeting of the public body

NRS 241.015(1)(c)

- Or as required by law



Public Comment

NRS 241.021

- Public Comment Periods
 - Block of time at beginning and end of meeting; or
 - During each action item
 - (After public body has discussed item, but before public body has taken any action on that item)
- Cannot restrict a speaker's viewpoint
- However, conduct that disrupts the meeting's order, efficiency or safety may be limited
- Board cannot deliberate or take action in response to public comment, unless item is already on the agenda



OML Violations

- Attorney General's Office may bring a legal proceeding to void an action taken in violation of the Open Meeting Law; or to obtain an injunction to prevent violations of the Open Meeting Law
- A private citizen may also bring a legal proceeding
- If AG finds an OML violation, public body must acknowledge finding on next agenda.



Corrective Action

- If an OML violation occurs, the public body may take corrective action within 30 days
- If appropriate corrective action taken, Attorney General's Office may elect not to prosecute the OML violation.



OML Violations

- Action taken in violation of the Open Meeting Law is **void** - NRS 241.036
- OML violations may result in administrative fines against board members
 - 1st offense: \$500; 2nd: \$1,000; 3rd: \$2,500
- Serious violations of the OML (member has knowledge of violation & participates in violation) can result in **misdemeanor** charges
- However, if a board member violates the OML because the member is relying on counsel's legal advice = no administrative fine or criminal penalty.



Sources of Information



- NRS Chapter 241
- Open Meeting Law Manual published by the Attorney General's Office
 - Available online at <http://ag.state.nv.us>
- Opinions from the Attorney General's Office relating to the OML
 - Available online at <http://ag.state.nv.us>
- Ask legal counsel for your public body

Ethical Standards for Public Bodies



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Ethics Code

NRS Chapter 281A

- The Ethics Code is a series of rules governing the conduct of certain public officers and employees
 - No gifts or services that would tend to improperly influence;
 - No use of position to get unwarranted privileges;
 - No negotiation by employee or officer of contract between government agency and employee's or officer's business;
 - No payment from private source for performance of duties;



Ethics Code, cont.

NRS 281A.400

- No use of confidential information obtained through position to benefit personal interests;
- No suppression of government info that would tend to be unfavorable to employee or officer;
- No attempts to benefit personal interests through use of subordinate;
- No seeking of employment or contracts through use of government job;
- No improper use of government property
 - Exception for de minimis use



Conflicts of Interest - Disclose

- Statutory conflicts include:
 - (1) Commitments in a private capacity to the interests of others in the matter,
 - (2) Financial or business interest in the matter,
 - (3) Receipt of a gift or loan in connection with a matter,
 - (4) Providing representation/counseling before an agency to a person or entity for compensation within the last year on a matter being considered, etc.
- There may also be constitutional considerations in analyzing conflicts of interest (due process, fairness, impartiality) in addition to the statutory conflicts listed above.
- If, at the time a matter is called, a member has a potential conflict of interest, it must be disclosed.



Recusal

- Recusal is generally disfavored because of the importance of public officials in carrying out their duties.
- Nonetheless, recusal is necessary in clear cases where the **independence of judgment of a reasonable person** in the public officer's situation would be materially affected by the conflict.
- If recusal, quorum and number of votes necessary to take action is reduced as though the member were not part of the public body.

Meeting Framework



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Prior to the Meeting

- Come prepared!
 - Read through draft minutes from previous meeting & note any corrections.
 - Read all supporting materials attached to the agenda.
 - Questions/concerns/issues - reach out to the staff liaison before the meeting or the Chair.
 - Including if you need to be absent from a meeting for any reason.
- Be on time (early)!
 - Remember that the meeting cannot begin until there is a quorum.



Framework for the Meeting

(May vary by Board purpose and practice)

- Call to Order, Roll Call & Determination of a Quorum
- Pledge of Allegiance
- Instructions for Public Comment (if virtual-only meeting)
- Public Comment (general)
- Approval of Agenda
- Approval of Draft Meeting Minutes from the Previous Meeting
 - Make any revisions necessary to accurately reflect previous meeting.
- Business Items
 - Non-action items (informational presentations)
 - Action items
 - Consent Agenda: Routine items grouped together & passed via a single vote to save time.
 - Block:
- Announcements & Selection of Topics for Future Meetings
- Public Comment (general)
- Adjournment
 - No vote necessary



Public Comment Guidelines

(May vary by Board practice)

- Instructions for Public Comment (virtual-only meetings)
 - Read phone number & conference ID to participate via phone
 - Explain how to provide public comment.
 - Ex. Utilize "Raise Hand" feature or press &5 to "raise your hand" and *6 to mute/unmute.
- Public Comment (general)
 - 3 minutes per person.
 - Unused time may not be allocated to other speakers.
 - If the Chair allows a member of public to speak (materially) longer than 3 minutes, should extend same courtesy to all other members of the public.
 - During general public comment periods, speakers may address any matter - whether on or off the agenda.
 - Depending on technical abilities of the meeting room, public may be able to make a brief presentation during their public comment period. However, USB drives or other digital media is not accepted due to the risk of introducing viruses or malicious code.
 - All comments are to be directed to the Board as a whole.



Action Items (Procedure)

- Chair opens agenda item (read item number & title of item).
- Presentations from agenda item proposer or others (depending on Board).
- Questions, comments, discussion or deliberation from Board members.
- Public comment (limited to the subject matter of the agenda item).
- Chair closes public comment & brings the matter back to the Board for any final questions from presenter(s), comments, or discussion.
- Chair calls for a motion.
 - Any board member can make a motion (including Chair)
 - "I move to.... approve, deny, table the item for discussion at a future meeting, take no action, etc."
- Chair calls for a second.
 - If there is no second, the motion fails.
- Chair restates motion and asks if there is any final discussion. Based on further discussion, the motion-maker may opt to withdraw their motion and make an amended motion. The second may second amended motion.
- Chair calls for the vote. ("All in favor say "Aye"). ("Any opposed say "nay").
- Chair announces vote. ("The motion passes unanimously."). ("The motion fails.")
- **Note: County boards are not expected to be familiar with or follow Robert's Rules of Order for parliamentary procedure.**



General Reminders

- The Chair runs the meeting.
- The Chair is responsible for conducting efficient, fair, and professional meetings & ensuring all Board members and members of the public have an opportunity to be heard.
 - Tip: Chair should let all members speak once before allowing anyone to speak a second time.
- If a person's conduct at the meeting disrupts the order, efficiency or safe conduct of the meeting, the Chair has a duty to address the conduct.
 - Warnings
 - Recess the meeting
 - Ask person to leave meeting/order expulsion from meeting (in extreme cases).
- Board members should raise their hands to be called upon by the Chair before speaking.
- Board members (and members of the public) should state their name before speaking so that the audio recording clearly reflects who is speaking & accurate minutes can be drafted.



At Washoe County, we foster a healthy, positive, and productive work environment where all individuals are treated with respect, dignity, and civility.

Therefore, we expect our employees, Elected Officials, appointees to Boards & Committees and those acting on behalf of the County to:

- ✓ Conduct themselves in a manner consistent with the 8 values set forth in the Code of Conduct both on and off duty



Code of Conduct – Summary of Expected Behaviors

1. **HONESTY** – the cornerstone upon which public trust is built, and therefore, employees and representatives of Washoe County shall strive to be accurate, sincere, and straightforward, to seek out the truth, and to avoid misrepresentation.
2. **RESPECT** – Employees and other representatives of Washoe County shall acknowledge the fundamental dignity and worth of others and their opinions.
3. **DUTY TO SERVE THE PUBLIC** – accountability to each other and the public.
4. **TOLERANCE** – we are strengthened as a community and organization by diversity in all its forms.



Code of Conduct – Summary of Expected Behaviors

5. **FAIRNESS** – employees and representatives of Washoe County shall endeavor to listen, understand and perform their duties without prejudice or favoritism.
6. **COURTESY** – employees and representatives of Washoe County shall be courteous, polite and considerate with each other and the public.
7. **PROFESSIONALISM** – employees and representatives of Washoe County shall behave in a professional manner, in support of the Code of Conduct at all times.
8. **NO BULLYING** – Washoe County prohibits bullying and therefore, employees and representatives shall not bully or intimidate others.

The full policy and complaint forms can be accessed at:

<https://www.washoecounty.gov/humanresources/files/hrfiles/Code-of-Conduct.pdf>



Policies on Discrimination, Harassment & Retaliation

Purpose:

- ✓ Washoe County has zero tolerance for and prohibits discrimination, harassment and/or retaliation in all aspects of employment because a person is a member of a protected category (age, sex, race, religion, sexual orientation, gender identity, and disability).
- ✓ Guided by state and federal laws that prohibit specific conduct as outlined in the full policy and mandatory online employee training (every 2 years).
- ✓ Sets forth a reporting process and procedure for employee complaints.
- ✓ Advises employees of their rights.

The full policy and complaint forms can be accessed at:

<https://www.washoecounty.gov/humanresources/files/hrfiles/Discrimination%20Harassment%20and%20Retaliation%20Policy.pdf>



Policy against Workplace Violence

Purpose:

- ✓ Washoe County is committed to providing a safe place for its employees to work. It is the County's policy not to tolerate acts or threats of physical violence, including acts or threats of violence through intimidation, harassment and/or coercion which involve or affect the County, which are directed against an employee while performing his or her duties of employment, which are directed against the County, or which are directed against any person while at a County workplace.
- ✓ Provides guidance:
 - ✓ On consistent procedures for reducing the risk of workplace violence.
 - ✓ To employees/supervisors regarding the appropriate handling of threats or acts of violence.
- ✓ Increases awareness throughout the organization for the need to safeguard employees and the public by providing a safe working environment.

The full policy can be accessed at: <https://www.washoecounty.gov/humanresources/files/hrfiles/Workplace-Violence-Policy-2023.pdf>

Thank you

