

**DIGEST OF THE MISSISSIPPI OPEN MEETINGS LAW
AND THE MISSISSIPPI PUBLIC RECORDS ACT**

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**Prepared by
John C. Henegan
Donna Brown Jacobs
Mary Jacq Watson**

**BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC
ATTORNEYS AT LAW**

THE MISSISSIPPI OPEN MEETINGS LAW

Miss. Code Ann. 25-41-1 et seq.

Any meeting of a state, county, or local governmental entity must be open to the public unless the entity goes into executive session according to the procedures prescribed by the Law.

1. What governmental entities are covered?

Any state, county, or local executive or administrative board, commission, authority, council, department, agency, bureau, or any other policy-making entity, or a committee thereof, which is supported wholly or in part by public funds or expends public funds as well as any standing, interim or special committee of the State Legislature.

2. What governmental entities are not covered?

- a. The state judiciary, including all jury deliberations;
- b. Public and private hospital staffs;
- c. Public and private hospital boards and committees;
- d. Law enforcement officials;
- e. The military;

- f. The state probation and parole board;
- g. The workers' compensation commission;
- h. Legislative subcommittees and conference committees;
- i. The Arbitration Council;
- j. License revocation, suspension and disciplinary proceedings held by the State Board of Dental Examiners.

3. What types of meetings are covered?

Any "assemblage of members of a public body at which official acts may be taken upon a matter over which the public body has supervision, control, jurisdiction, or advisory power," including:

- a. An "informal meeting" of a public body and its staff although no votes are taken by the public body's members;
- b. Luncheon meetings in a public body where deliberation and discussion takes place concerning matters within the public body's jurisdiction;
- c. Work sessions of a public body;
- d. Joint meetings of two public bodies; and
- e. A local school board of trustees' visit to a public school
- f. Any such assemblage through the use of video and teleconference devices.

4. What types of meeting are not covered?

"Chance" meetings or "social gatherings" of members of a public body are not covered. Regular meetings of public officials at the local coffee shop to discuss county or local business are not chance meetings. "Executive sessions" are not covered.

5. When can a public body go into "executive session?"

A public body may go into executive session to discuss:

- a. Personnel matters relating to job performance, character, professional competence, or physical or mental health of a person holding a specific position;
- b. Prospective or actual litigation;
- c. Security personnel, plans or devices;
- d. Investigations concerning allegations of misconduct or violations of law;
- e. Extraordinary emergencies posing immediate or irrevocable harm to persons or property;
- f. The prospective purchase, sale or leasing of lands;
- g. The preparation of admission tests for recognized professions;
- h. The location, relocation or expansion of a business or industry;
- i. A line item in a budget which might affect termination of an employee or employees, although all other budget items must be considered in open meetings;
- j. Discussions between a school board and individual students within the board's jurisdiction or the parents or teachers of such students regarding problems of the students, parents, or teachers.

Any body of the State Legislature which is meeting on matters within the jurisdiction of such body may go into executive session.

All meetings must begin as an open meeting even if the only matters to be discussed are topics exempted under this statute. Three-fifths affirmative vote of all members present is required before a public body can go into executive session. The reason for executive session must be stated in the open meeting and recorded in the minutes.

6. What type of notice is required under the law?

Unless the time and place for a public body's meetings is prescribed by statute, the public body must set forth in its minutes the time, place, and procedure for all its meetings. A city must

fix by ordinance the place and hour of its board meetings. A board of supervisors must usually give notice five days before a special meeting takes place.

Notice of meetings of State Legislative committees, other than conference committees, shall be announced on the loudspeaker during sessions or posted on the bulletin board. When not in session, the Clerk of the House or the Secretary of the Senate shall keep the meeting times and places.

Notice of a public body's teleconference or videoconference wherein public business is discussed or transacted must be given at least thirty days in advance, including date, time, place and purpose of the meeting. (Thirty-days' notice is NOT required when the meeting is called to address an emergency or as a continuation of a previous, properly noticed meeting.)

7. What if a public body recesses its meeting, or calls a special meeting?

Specific notice of any recessed meeting, adjourned meeting, interim meeting, or any called special meeting must be posted within one hour after the meeting is called in a prominent place in the building where the body normally meets.

8. Are minutes required to be taken, and if so, what must be included?

Minutes must be kept for all open and executive sessions of a public body covered by the Law. The minutes must include: (1) what members are present and absent; (2) the date, time, and place of the meeting; (3) an accurate recording of any final actions; (4) a record, by individual member, of any votes taken; and (5) any other information that the public body requests be included. Minutes must be recorded within 30 days after recess or adjournment. Recorded minutes must be open to public inspection during regular business hours. If a request for the minutes is made before the minutes have been recorded and/or approved, the body must make available the notes from which the minutes will be prepared.

9. Can I audiotape, videotape or film meetings?

A public body cannot ban a person's making notes or using a tape recorder at a public meeting as long as the recording process is not interfering with the orderly conduct of the meeting. Since videotaping or filming a public body's meeting can now be done without interfering with the public body's proceedings, it would arguably be unreasonable for a public body to prohibit this type of activity.

10. How do I enforce my rights under the Law?

Initially, simply sit down with the local public official and express your concern that the public body is not complying with the Law's requirements. You may wish to set forth your request in writing.

If informal discussions fail, you have the right to file suit in chancery court and request an injunction or writ of mandamus to require compliance with the Law.

**THE MISSISSIPPI PUBLIC RECORDS ACT
Miss. Code Ann. 25-61-1 et seq.**

All public records are public property. Any person shall have the right to inspect or obtain any public record.

1. What governmental entities are covered?

Every "public body," which includes any department, bureau, division, commission, committee, subcommittee, board, agency, or any other entity of the state or a political subdivision thereof, any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. "Within the meaning of this chapter, the term 'entity' shall not be construed to include individuals employed by a public body or any appointed or elected public official." The State Legislature is not covered by this Act.

2. What types of records are covered?

Any documentary materials, regardless of physical form or characteristics, used in the conduct of any business of any public body or required to be maintained by any public body.

3. What types of records are not covered?

- a. Records developed by judges or their aides;
- b. Records developed by juries;
- c. Personnel records and employment applications;
- d. Employment examination questions and answers;
- e. Letters of recommendation for employment by a public body;
- f. The work product of any attorney representing a public body which is related to actual or prospective litigation;
- g. Individual tax records;
- h. Appraisal information concerning the sale or purchase of real or personal property for public purposes;
- i. Future academic examination questions and answers;
- j. Records of the Mississippi Department of Archives and History which contain archeological data;
- k. Records maintained by public hospitals except the official minutes of the board of trustees and financial reports filed as required by statute;
- l. Records of the State Bureau of Vital Statistics of the Mississippi Department of Health, which are of no legitimate and tangible interest to the requester;
- m. Records of the Department of Economic Development which contain client information concerning development projects, for a period of two years after receipt of the information by the department;

- n. Records of public bodies primarily engaged in the enforcement of criminal laws, but records consisting only of identifying data and notations of arrest (arrest records), the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status are not exempt;
- o. Licensure applications;
- p. Recommendations in the possession of any state board which is authorized to hold examinations and grant licenses or certificates to practice any profession, respecting application of a professional license;
- q. Future licensing test questions;
- r. Commercial and financial information of a proprietary nature required to be submitted to a public body, except for information submitted to a regulatory agency by a public utility that is related to the establishment of or changes in rates regulated by the public body unless the information constitutes a trade secret or confidential commercial or financial information of the public utility;
- s. Noncontroverted case medical reports of the Mississippi Workers' Compensation Commission;
- t. Certain records compiled in connection with coroners' investigations;
- u. Any records specifically declared by another statute to be confidential or privileged (e.g., 911, gaming data); and
- v. Letters of recommendation for admission to any educational agency or institution.

These exemptions are permissive rather than mandatory. Confidential commercial or financial information or trade secrets cannot be examined until notice is given to the submitter who then has reasonable time to obtain court order prohibiting disclosure.

4. How do I invoke my rights?

Submit a written request for the public record that you want. In the absence of written procedures, the document should be produced in one working day. No public body can adopt procedures which allow more than 14 days to respond to a request. Any response by a public body that denies a request must be in writing and must contain a statement of the specific reasons for the denial. The agency may require that you pay reasonable reproduction costs.

5. How do I enforce my rights?

Informal attempts should be made to resolve differences regarding your written request. Should this fail, suit may be filed in the chancery court of the county where the public body is located. The court may provide injunctive relief or writs of mandamus as well as impose a civil fine not to exceed \$100.00. A successful party may be awarded its reasonable cost of filing suit.