

NEVADA'S OPEN MEETING LAW

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What is the Open Meeting Law (OML)?



- NRS Chapter 241
- "In enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly." NRS 241.010(1).

When does the OML apply?

PUBLIC BODY

- The OML generally applies to all meetings of public bodies in the State of Nevada.
  - Includes subcommittees, regardless of name
  - Exceptions are strictly construed
  - Definition contained in NRS 241.015(5)
  - Legislature of the State of Nevada is exempt from the OML

MEETING

- Under the OML, a "meeting" requires a **Quorum + Deliberation *or* Action**
- Quorum means a simple majority of the total body or other proportion established by law.
- Deliberate means collectively to examine, weigh and reflect upon the reasons for or against an action.
- Action means a majority vote of the members present (all members for elected bodies).

When does the OML apply?

- A gathering of a quorum at a social or professional function or for training is *not* a meeting *as long as* there is no deliberation or action.
- Exception: Attorney client conference regarding legal advice, can include deliberation, so long as the deliberation is limited to the legal advice.
- Electronic communication between a quorum of members can constitute a meeting.
  - Email pitfall: "reply all"
- Serial communications or "walking quorums" constitute a constructive meeting.
  - A constructive quorum can exist with less than a quorum speaking together at any given time if opinions are relayed between members.



How do I comply with the OML?

Meeting Notice and Agenda

- Must include:
  - Time, place and location (or information on remote technology system)
  - Name, contact and business address for supporting material, plus location (physical or electronic)
  - Clear and complete statements of topics
  - Action items denoted as "for possible action"
  - Public comment periods and restrictions
- Requirements can be found in NRS 241.020

- Agenda posting requirements:
  - Office of the public body or location of meeting
  - Public body website
  - Nevada notice website
- Posted no later than 9 AM of the 3rd working day before the meeting.
- Notice must be sent to persons who have requested notice of meetings.

Additional Meeting Requirements

- Public bodies shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.
- Additional notice required for consideration of a person's character, misconduct or competence or to take administrative action against a person.
- Meetings must be recorded or transcribed.
- Minutes must be kept in conformance with NRS 241.035.
- Supporting material is required to be available to the public at the time it is provided to members of the public body.
- An emergency meeting may only be called where the need to act upon a matter is truly unforeseen and circumstances dictate that immediate action is required.

Public Comment

- Minimum requirement:
  - Two options—general or limited to agenda items prior to any action item *or* on each action item after discussion, but prior to vote
  - General public comment period at some time prior to adjournment
- Restrictions must be reasonable time, place, and manner restrictions. NRS 241.020(3)(d)(3).
- The OML does not "[p]revent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical."
- New in 2025: Remote options are only required for public comment where there is no physical location available to the public.



Other Meeting Considerations

CLOSED SESSIONS

- Closed sessions may be held by a public body to consider the character, alleged misconduct, professional competence or physical or mental health of a person. NRS 241.030
  - May also be held to grade examinations.
- Exceptions:
  - Appointment of a member to the public body
  - Consider the chief officer of the body/agency
- Action must still occur during a public meeting.

VIRTUAL ATTENDANCE

- Additional requirements where there is no physical location available for public to attend and participate
- Public must be able to hear and observe to the same level as members
  - Pit-fall: chat function in remote technology system

What happens when the OML is violated?



- Actions taken in violation of the OML are void.
- Attorney General's Office has authority to investigate and prosecute violations.
- Corrective action is recommended and while it may not eliminate the violation, it can mitigate severity and further ensure that the business of government is accomplished in the open.
  - Prospective only
  - Requires independent deliberative process

2025 Updates

- Attorney-client exception is no longer limited to advice regarding potential or existing litigation.
- Physical location requirements for meetings to adjudicate contested cases or consider regulations are clarified in application.
- No longer have to read phone number and instructions for public comment when there is a physical location for the meeting.
- Clarification that the OML does not provide protection for defamation during public comment.

LINKS

- https://ag.nv.gov/Hot_Topics/Training_Materials/
- https://ag.nv.gov/About/Governmental_Affairs/OML_Opinions/
- https://ag.nv.gov/uploadedFiles/agnvgov/Content/About/Governmental_Affairs/2019-03-26_OML_12TH_AGOMANUAL.pdf

