

# Idaho Code on Open Meeting Laws



Idaho Code sets up the requirements for open and closed (executive) meetings.

## TITLE 74

### TRANSPARENT AND ETHICAL GOVERNMENT

#### CHAPTER 2

#### OPEN MEETINGS LAW

74-204. NOTICE OF MEETINGS — AGENDAS. (1) Regular meetings. No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency or, if no such office exists, at the building where the meeting is to be held. The notice for meetings and agendas shall also be posted electronically if the entity maintains an online presence through a website or a social media platform.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If only an executive session will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall state the reason and the specific provision of law authorizing the executive session.

(4) An agenda shall be required for each meeting. The agenda shall be posted in the same manner as the notice of the meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion. An agenda item that requires a vote shall be identified on the agenda as an "action item" to provide notice that action may be taken on that item. Identifying an item as an action item on the agenda does not require a vote to be taken on that item.

(a) If an amendment to an agenda is made after an agenda has been posted but forty-eight (48) hours or more prior to the start of a regular meeting, or twenty-four (24) hours or more prior to the start of a special meeting, then the agenda is amended upon the posting of the amended agenda.

(b) If an amendment to an agenda is proposed after an agenda has been posted and less than forty-eight (48) hours prior to a regular meeting or less than twenty-four (24) hours prior to a special meeting but prior to the start of the meeting, the proposed amended agenda

shall be posted but shall not become effective until a motion is made at the meeting and the governing body votes to amend the agenda.

(c) An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting. Final action may not be taken on an agenda item added after the start of a meeting unless an emergency is declared necessitating action at that meeting. The declaration and justification shall be reflected in the minutes.

History:

[74-204, added 2015, ch. 140, sec. 5, p. 370; am. 2018, ch. 223, sec. 1, p. 502.]

## **Why School Boards are Sometimes Silent**

Elected School Trustees are frequently and regularly criticized for failing to share details and discussions when it comes to various topics, particularly employee matters. The perception is that Trustees use legal justification to avoid explaining or defending their decisions. However, the system is designed to protect and safeguard individual personnel information, not protect a Board of Trustees.

Idaho statutes prohibit the discussion of sensitive employee information outside of general points like term of employment, pay grade, salary history and bonuses. Unless the employee gives written permission for information to be shared, or shares it themselves, nothing more can be publicly presented. This leaves boards to present their decisions with little to no accompanying evidence. That doesn't mean that boards act without evidence or facts.

While boards are limited in their scope of public disclosure, they can talk about the process for gathering, analyzing and synthesizing information and how issues come to a board. Trustees can discuss their primary goals in these matters: achieving the best interest of students and the educational institutions and hopefully reaching an agreeable resolution for both parties.

Employees who are dissatisfied with results can and do appeal to other legal channels. Elected boards are the final say for the school district, but depending on the issue, may not be the final say legally.

No final action or decision can be taken in executive sessions. For this reason, boards will enter into executive session and then come out after the discussion and make a public record if an action is required. Some suggest Boards wait until people leave to discuss and decide on these matters, when, in reality, they are following the statutory process. Boards would not and could not choose to make a decision in open session prior to having the discussion in executive session.

The law is clear on employee confidentiality and conversations a board may engage in. Boards adhere to these laws for a variety of reasons and fundamental to it is protection of the employee and to avoid violating the law themselves. Such procedures create an interesting dynamic as employees are free to discuss any part of what they believe the issues or problems may be while board members are bound to confidentiality. A board's position in these delicate situations is not an enviable one and can be frustrating to the public. It is for this reason that every effort is made to avoid decision making at the board level. Numerous school, administrative and district supervisors are typically utilized to help resolve matters before they reach the board. The board is seen as a last recourse, not a first stop.

Boards can also discuss the steps leading up to a decision and where and when they discussed a matter. These meetings take place in state approved executive sessions. Boards must call for and get approval from a majority of other board members before entering into an executive session. These sessions are limited in topic including; the hiring, evaluation or dismissal of an employee or acquiring interest in real property.

Hagerman Joint School District trustees are interested in public comment and are in the process of investigating ways for patrons to express their concerns, support and suggestions without violating open meeting and agenda laws. Striking the right balance will take some effort and time. And community input may be one sided, at times, as board members may not be able to fully respond to specific questions or requests. Board members recognize their regular monthly

meetings do not always provide adequate space for community interaction and are working to make adjustments to foster public involvement.

Understanding how Idaho laws impact this goal is an important first step to building a better community supported education for our kids.