



Official Meetings Open to Public (Open Meetings)
Iowa Code Chapter
Tool D

Early Childhood Iowa areas (ECIA) with concerns about the Open Meetings Law are encouraged to seek legal advice within their communities. We encourage ECIA boards to contact their county attorney for legal advice but they may seek legal representation from collaborative partners, city attorney, fiscal agents, or others. The following is intended for information purposes only.

All meetings of ECI area boards are subject to the Open Meetings law. Iowa Code § 256I.7(5) states in part as follows: *“All meetings of an area board or any committee or other body established by an area board at which public business is discussed or formal action taken shall comply with the requirements of chapter 21 [Open Meetings]. An area board shall maintain its records in accordance with chapter 22 [Open Records].”*

Please refer to the entire text of chapter 21 and 22 for more information.

The following guidance was prepared by Governor Vilsack’s office specifically for the ECI Area Directors quarterly technical assistance meeting, December 13, 2006.



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Open Meetings Checklist

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Generally

Under Chapter 21 of the Code of Iowa, meetings of governmental bodies (including 28E entities) must be held in a session that is reasonably accessible to the public and preceded by public notice. Consequently, unless otherwise provided by law, all actions and discussions at meetings of governmental bodies, whether formal or informal, must be conducted and executed in an open session. Additionally, a governmental body must keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting.

The following checklist identifies the issues to be considered by executive branch agencies under the Iowa Open Meetings Act, Iowa Code § 21.1 *et seq.* A more thorough examination of these issues can be found at http://www.state.ia.us/government/ag/images/pdfs/Openmeetings_out.pdf. *Questions regarding application of the Iowa Open Meetings Act may be directed to the General Counsel of the Governor's Office at 515/281-3502 or to the Attorney General's Office at 515/281-5164.*

Step 1: Governmental Body

Check any of the following that apply to your entity:

- Board, council, commission, etc. expressly created by statute or executive order;
- Board, council, commission, etc. of political subdivision or tax supported districts;
- A multimember body formally and directly created by one or more boards, councils, commissions etc. of a political subdivision;
- Regent directed body in charge of managing intercollegiate athletic programs at state universities;
- Advisory board, commission, or task force created by the Governor, General Assembly, or political subdivision to develop and make public policy recommendation;
- Publicly supported nonprofit who conduct pari-mutual wagering; or
- A nonprofit licensed to conduct gambling games pursuant to Chapter 99F
- A community empowerment area board or any committee or other body established by a community board (Iowa Code § 28.6).*

If you check *any of the above*, the Open Meetings Law applies—proceed to step 2 to determine whether a meeting will take place. If you did not check any of the above, the Open Meetings Act does not apply unless otherwise provided by law.

Step 2: Meeting

Check any of the following that apply to your session:

- Gathering in person or by electronic means¹
- Either formal or informal
- Majority of the members of a governmental body
- Deliberation² or action upon any matter within the scope of the governmental body's policy-making duties; ***or if a community empowerment area board or any committee or other body established by a community board—public business is discussed or formal action taken (Iowa Code § 28.6).***

If you checked ***all of the above*** boxes, then the Open Meetings Act applies unless otherwise exempt by law. Proceed to step 3 to determine proper notice. If you did not check all of the above, the Open Meetings Act does not apply.

Step 3: Notice

If the Open Meetings Act applies, a public meeting must be preceded by notice reasonably calculated to advise the public of the substance of the meeting. Such notice must contain the following elements:³

- Occur at least 24 hours before the meeting, unless for good cause,⁴ 24 hours would be impracticable
- Date, time, and place
- Tentative agenda
- Advise the news media that have filed a request for notice
- Post a copy on a bulletin board in a prominent place easily accessible to the public and clearly designated for that purpose at the principle office of the governing body, or if not office exists, at the building where the meeting will be held

¹ Electronic meetings may be held only when a meeting in person is impossible or impractical. Such electronic meeting must provide the public access to the conversation to the extent reasonably possible; comply with the notice requirements; record in the minutes why a meeting in person was impossible or impractical; and comply with procedures for closed meetings when applicable.

² Does not include gatherings for purely ministerial (no exercise of discretion or judgment) or social purposes where there is: (1) no discussion of policy; or (2) no intent to avoid the purposes of Chapter 21 of the Code of Iowa.

³ *Alternative notice:* If another section of the Code of Iowa provides a manner for giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirement of the Iowa Open Records Act.

⁴ *Good cause:* When necessary to meet on less than 24 hours notice, or at a place that is reasonably accessible, good cause for departing from the notice requirements shall be entered into the minutes.

Step 4: Minutes

Governmental bodies must keep minutes of all its meetings containing the following elements:

- ❑ Date, time, and place
- ❑ Members present
- ❑ Action taken⁵

Step 5: Closed Session

A government body may, but is not required to, hold a closed session only to the extent necessary for any of the following reasons:

- ❑ To review records that must remain confidential as a condition of the receipt of federal funds;
- ❑ To discuss patent applications;
- ❑ To discuss strategy with counsel when litigation is currently pending or imminent and where discussion would prejudice the government's position in the litigation;
- ❑ To discuss contents of a licensing examination or whether to initiate a disciplinary proceeding if the governmental body is a licensing examination board;
- ❑ To discuss whether to suspend or expel a student unless an open meeting is requested by the student or parents;
- ❑ To discuss a decision to be rendered in a contested case hearing under section 17A;
- ❑ To avoid disclosure of certain information that if disclosed would allow a violator of the law to avoid detection;
- ❑ To evaluate the professional competency of an individual in order to prevent needless and irreparable injury to the person's reputation and that person requests a closed session;
- ❑ To discuss real estate purchases when premature exposure may increase the price of the property (the information must be made available after the transaction is made);
- ❑ To discuss information contained in records of an airport, a municipality, municipal or jointly owned municipal utility, or a rural water district organized pursuant to section 357A, if the records are confidential under chapter 22⁶

With respect to a closed session, all of the following procedures must be satisfied:

- ❑ Affirmative 2/3 vote of the members of the governmental body, or all of the members present
- ❑ The vote of each member on the question of holding a closed session must be announced publicly and entered in the minutes
- ❑ The reason for the closed session must be announced publicly and entered in the minutes
- ❑ Any business discussed during closed session must related directly to the specific reason announced as justification to close the session
- ❑ Final action on any matter discussed during a closed session must be taken in open session unless a specific provision of the Code expressly permits final action in closed session.
- ❑ Detailed minutes must be kept on (1) all discussion; (2) persons present; and (3) action occurring
- ❑ Closed sessions must be tape recorded
- ❑ Minutes and tape recording must be sealed and retained for a period of at least one year.

⁵ Minutes must show the result of each vote taken and information sufficient to indicate the vote of each member present.

⁶ This exception will be repealed on June 30, 2007.

Step 6: Violations

Any aggrieved person may seek judicial enforcement of Iowa open meetings law. Upon a finding of a violation, a court *shall* assess a governing member who participated in the violation a penalty of at least \$100, but not to exceed \$500, unless that member can prove he/she:

- ❑ Voted against the closed session; or
- ❑ Believed in good faith they were complying with the law; or
- ❑ Reasonably relied upon advice of the Attorney General or the governmental body's counsel.

The court *shall* also assess the complainant's attorney fees to the governing members and may void the action taken by the governing body in closed session if public interest requires.

A member will be removed from the governmental body upon a second violation of the Open Meetings Act for which damages were assessed.

Finally, the code specifically sets out that "ignorance of the legal requirements of [the open meeting law] is no defense."