

OPEN MEETING LAW GUIDE

General Requirements

1. Wisconsin's Open Meeting Law provides that all meetings of governmental bodies shall be open to all citizens at all times. Sec. 19.81(2), *Wis. Stats.*
2. Meetings of local governing bodies or their subunits must be held in places reasonably accessible to the public.
3. Meetings are open to all members of the public unless specifically provided otherwise by law.
4. If one-half or more of the members of a governmental body are present at a meeting, that meeting is presumed to be convened for the purpose of conducting official business. Such a meeting is in violation of the Open Meeting Law if proper notice was not given and the meeting is not open to the public. Sec. 19.82(2) and Sec. 19.83, *Wis. Stats.*
5. The Open Meeting Law also applies when members of a governing body, or committee thereof, engage in business of that body and the number of members present is potentially sufficient to determine the governing body's course of action regarding the proposal discussed. *State vs. Showers*, 135 Wis.2d 77, 398 N.W.2d 154 (1987).

Public Notice

1. **WHO MUST RECEIVE NOTICE.** For any meeting, the presiding officer, or his/her designee, shall give notice to the official newspaper and to any other members of the news media who have filed a written request to receive such notices, or if neither exists, in a manner likely to give notice to the public. Notice must also be given as required by any other state statutes.
2. **CONSTRUCTION OF NOTICE.** The notice for the meeting shall include:
 - a. The time, date and place of the meeting, and
 - b. The subject matter of the meeting, including subject matter to be considered in closed session.
3. **TIME FOR NOTICE.** Notice must be given at least twenty-four (24) hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given. In no case may notice be provided less than two (2) hours in advance of the meeting. Sec. 19.84(3), *Wis. Stats.*
4. **COMMITTEES AND SUBUNITS EXEMPTION TO NOTICE REQUIREMENT.** A legally constituted subunit of a parent government body may conduct a meeting during a lawful meeting of the parent governmental body, the recess of the governing body's meeting, or immediately after the lawful meeting to act or deliberate upon a matter which was the subject of that meeting. For this exemption to apply, the presiding officer must publicly announce the time, place and subject matter of the subunit's meeting in advance at the meeting of the governing body.

Procedure For Closed Sessions

1. Required notice must be given if the presiding officer or his/her designee knows that a closed session is being contemplated. Notice is required regardless of whether a majority of members will or will not support going into closed session at the meeting. Sec. 19.84(2), *Wis. Stats.*
2. After first meeting in open session, with proper notice, a motion made, recorded and supported by majority vote is required to close, with the vote of each member recorded in the minutes. Sec. 19.85(1), *Wis. Stats.*
3. If the motion to go into closed session is carried, the presiding officer shall announce to those present at the meeting (to be recorded in the minutes) the nature of the business to be considered in the closed session and the specific exemption(s) relied upon in Sec. 19.85, *Wis. Stats.*, under which the closed session is permitted.
4. Only matters contained in the presiding officer's announcement of the closed session may be considered during the closed session.
5. An open session, with adequate notice, must precede a closed session, even where it was decided at a prior open session to go into a closed session at a subsequent meeting.
6. At a properly convened open session, a governmental body may vote to go into closed session for a permitted purpose, where specific notice of intent to consider going into closed session was not included on the agenda at the time notice of the open session was given. However, such procedure requires that the presiding officer or his/her designee did not contemplate or have knowledge that any of the other members contemplated a closed session at the time notice of the agenda was given.

Specific Exemptions Allowing Closed Sessions

1. Sec. 19.85(1)(a), *Wis. Stats.*, creates an exemption for governmental bodies deliberating after quasi-judicial trials or hearings. However, boards of review cannot rely on this exemption, for Sec. 70.47(2m), *Wis. Stats.*, requires all board of review meetings to be held in open session.
2. Sec. 19.85(1)(b), *Wis. Stats.*, is a limited exception to the Open Meeting Law allowing the use of a closed session when a governmental body is considering the demotion, dismissal, licensing, discipline or tenure of a public employee or a person licensed by a board or commission. This exception permits preliminary discussion and investigation without the necessity of providing actual notice to the individual involved. However, before any evidentiary hearing can be conducted or formal action taken, notice must be given to the person involved so that he or she can exercise his or her right to request an open session for those purposes.
3. Sec. 19.85(1)(c), *Wis. Stats.*, sanctions the use of closed sessions where governmental bodies are considering employment, promotion, compensation or performance evaluation of any public employee. Governmental bodies should exercise caution when considering performance to avoid discussing matters that are covered by Sec. 19.85(1)(b), *Wis. Stats.*
4. Sec. 19.85(1)(d), *Wis. Stats.*, permits the use of closed sessions when applications for parole or probation are being considered, or when crime detection or prevention strategy is to be discussed.

5. Sec. 19.85(1)(e), *Wis. Stats.*, allows closed sessions for the purpose of deliberating or negotiating the purchase of public properties, the investing of public funds, or the conducting of other specified public business, as long as competitive or bargaining reasons require a closed session. Under this exception, a governmental body could meet in closed session for the purpose of forming negotiation strategies, although the body must give notice that an open session will be held for the purpose of taking a vote to convene in closed session for the purpose of discussing labor negotiation strategies.
6. Discussions by governmental bodies considering the financial, medical, social or personal histories or disciplinary data of specific persons which, if conducted in public, would have a “substantial adverse effect upon the reputation of any person referred to” may be held in closed session under Sec. 19.85(1)(f), *Wis. Stats.* However, this exemption is unavailable where Sec. 19.85(1)(b), *Wis. Stats.*, is applicable.
7. Sec. 19.85(1)(g), *Wis. Stats.*, allows a governmental body to confer with its legal counsel in closed session for the purpose of obtaining oral or written advice concerning strategy to be adopted by the body with respect to present and prospective litigation directly involving the governmental body.
8. Closed sessions may be utilized by governmental bodies to consider requests for confidential written advice from ethics boards under Sec. 19.85(1)(h), *Wis. Stats.*

Limitations on Closed Sessions

1. Sec. 19.85(2), *Wis. Stats.*, makes it impermissible for a governmental body to reconvene in open session within twelve (12) hours after a closed session, unless public notice of the subsequent open session was given at the same time and in the same manner as was required for the original open session.
2. Final ratification or approval of a collective bargaining agreement is required to be in open session under Sec. 19.85(3), *Wis. Stats.* However, a governmental body can vote to preliminarily approve bargaining proposals in closed session, in order to reach a consensus, as long as final ratification occurs in open session.

Ballots, Votes and Records

1. Unless provided elsewhere by statute, no secret ballot may be utilized by a governmental body to determine any election or decision, except the election of the officers of such body. This narrow exception does not permit use of secret ballots to elect members of committees, officers of the governmental units such as department heads, or fill vacancies on the body itself.
2. Any member may require the ascertainment and recording of each vote.
3. Records of motions and roll call votes must be preserved and open for public inspection.

Use of Equipment in Meetings

1. A governmental unit must make a reasonable effort to accommodate the media’s equipment.
2. Any person may record, film or photograph a meeting in open session, provided that the use of this equipment does not interfere with the conduct of the meeting.
3. A member of a governmental body does not have the right to tape record a closed session of the board.