



North Carolina Open Meetings Law Requirements

Ten Key Concepts

1. Official meetings of public bodies must be open to the public, unless there is specific authority to meet in closed session. (G.S. 143-318.10)
2. A public body is any officially created governmental board, committee or commission that transacts public business. The body does not have to have legislative or decision-making authority. An administrative or advisory body is covered by the act. A public body that consists solely of staff is not covered by the act. (See UNC Policy Manual, Section 1300.4(G), Defining Public Body.)
3. An official meeting occurs when a majority of the public body gathers together simultaneously in person or electronically to transact public business. Social gatherings don't trigger the act as long no business is discussed.
4. A near simultaneous electronic communication among a majority of the members of a public body may qualify as an official meeting.
5. The key requirements are notice and the opportunity to attend. The type and timing of the notice depends upon the type of meeting. (G.S. 143-318.12)
6. Individuals have a right to attend, but not to speak, under the open meetings law. Other statutes provide for public hearings and public comment periods.
7. Closed sessions must be announced in open session with a motion to go into closed session, which identifies the specifically authorized basis for the closed session. (G.S. 143-318.11)
8. Public bodies must create minutes of open meetings, and general accounts of closed sessions. These minutes and general accounts are public records, but may be withheld from access as long as necessary to avoid frustrating the purpose of the closed session.

9. A person who has been denied access to a public meeting can ask a court to 1) declare that the meeting was unlawfully held; 2) order the public body to refrain from future violations; or 3) invalidate actions that were taken.

10. Private entities are typically not subject to the open meetings law, even if they receive significant funding from public entities. Courts have applied the law to private entities only when they are substantially controlled by and connected to public entity.

Examples of Major Closed Session Purposes: (G.S. 143-318.11)

To consider confidential records (a)(1)

To consult with an attorney on matters within the attorney-client privilege, including consideration of litigation or a claim (a)(3)

To establish a negotiating position in the acquisition of real property or employment contract (a)(5)

To consider performance, etc. of individual employees and officers; does not include members of the body itself (a)(6)

To plan, conduct or hear reports about investigations of alleged criminal misconduct (a)(7)

To formulate plans relating to emergency response to incidents of school violence (a)(8)

For more information:

Visit Coates' Canons: North Carolina Local Government Law Blog, <http://canons.sog.unc.edu/>

See also, David M. Lawrence, *Open Meetings and Local Governments in North Carolina: Some Questions and Answers*, 7th ed., School of Government, 2008.

Guidelines on Defining "Public Body" within the Meaning of the Open Meetings Act

Each campus shall use the following as a guide in determining what authorities, boards, commissions, committees, councils or other multi-person bodies are deemed to be "public bodies" within the meaning of the Open Meetings Act.

The statutorily created governing boards of the University, and the committees of such boards, are "public bodies" subject to the requirements of the Open Meetings law. In addition, "public body" shall be deemed to include an authority, board, commission, committee, council or other multi-person body of the University that satisfies all of the following criteria:

- (1) It is established by or at the direction of:
 - (a) the Board of Governors;
 - (b) the President;
 - (c) a Vice President;
 - (d) a Board of Trustees;
 - (e) a Chancellor;
 - (f) a Vice Chancellor; or
 - (g) any combination of the foregoing.
- (2) The membership does not consist exclusively of administrative officers of the University.
- (3) Its designated function or subject-matter jurisdiction is either University-wide or constituent institution-wide.
- (4) It is expressly authorized or directed
 - (a) to legislate, make policy, adjudicate or take administrative action; or
 - (b) to make findings concerning or to recommend legislative, policy-making, quasi-judicial, or administrative action.
- (5) This guideline is not intended to include the Council of Student Body Presidents, the Faculty Assembly, the Graduate Council, or any other similar group. Even though any of these groups may be asked to meet with the President or other senior administrators for general discussion of the affairs of the University, these groups are not expressly authorized or directed to take any of the actions set out in paragraph (4) of this guideline.

