

“My office stands prepared to investigate any complaint of violation of the Open Meetings Act.”

- DuPage County State’s Attorney Robert B. Berlin

It is the intent of the State of Illinois that the deliberations and actions of public bodies be taken openly. To that end, the Illinois General Assembly has enacted the Open Meetings Act.

Where can I find the Open Meetings Act?

The Open Meetings Act is found at 5 ILCS (Illinois Compiled Statutes) 120/1 to 120/7.5.

What meetings are covered by the Act?

The Act states, unless meetings are specifically excepted in Section 2 of the Act, “all meetings of public bodies shall be open to the public.”

What constitutes a meeting?

A meeting is defined as “any gathering, whether in person or by video or video conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other means of contemporaneous interactive communication of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a five-member public body, a quorum of the members of a public body held for the purpose of discussing public business.” 5 ILCS 120/1.02.

What is a public body?

“A ‘Public Body’ includes all legislative, executive, administrative or advisory bodies of the state, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this state and any subsidiary bodies of any of the foregoing including, but not limited to, committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof.” 5ILCS 120/1.02. A public body also includes the Health Facilities and Services Review Board. The Act

does not apply to private, non-profit corporations, even if such corporations administer programs primarily funded by governmental agencies and are required to comply with governmental regulations, if the directors and employees of the corporations are free from direct government control.

What is required of the public body?

Every public body shall give notice of the schedule of regular meetings at the beginning of each calendar or fiscal year and shall state the regular dates, times and places of such meetings. An agenda for each regular meeting shall be posted at the principal office of the public body and at the location where the meeting is to be held at least 48 hours in advance of the holding of the meeting. 5 ILCS 120/2.02(a). Closed sessions must be recorded and there are provisions governing when the recording can be destroyed.

How is the Act enforced?

Any person, including the State’s Attorney, may bring a civil action in Circuit Court when a violation of the Act occurs or there is probable cause to believe that a violation will occur. This action must be brought prior to or within 60 days of the meeting alleged to be in violation of the Act or within 60 days of the discovery of a violation by the State’s Attorney. In addition to civil proceedings, criminal charges may be brought by the State’s Attorney against anyone who violates the Act. Such a violation is a Class C Misdemeanor, which is punishable by a fine of up to \$500 and up to 30 days in jail. A person who believes that a violation of this Act by a public body has occurred may file a request for review with the public Access

Counselor established in the Office of the Attorney General no later than 60 days after the alleged violation. The request for review must be in writing, must be signed by the requester and must include a summary of the facts supporting the allegation. Upon receipt of a request for review, the Public Access Counselor shall determine whether further action is warranted. 5 ILCS 120/3.5.

What else is included in the Act?

The Open Meetings Act also contains rules regarding the time and place, and the use of recording devices at meetings. In addition, the Act also sets forth training requirements for public bodies and the duty to post information pertaining to benefits offered through the Illinois Municipal Retirement Fund.

When are Closed Sessions Allowed?

Exceptions to the requirement that meetings be open are contained in Section 2 of the Act - 5ILCS 210/2(c). These exceptions are to be strictly construed and allow, but do not require, the holding of a closed session. Proper topics include but are not limited to:

- Employment, discipline;
- Compensation or dismissal of specific employees;
- Collective bargaining matters;
- Selection of a person to fill a public office or removal of a person from public office;
- Purchase, lease or sale of property;
- Litigation involving the public body;
- Professional ethics or performance;
- Security procedures and the use of personnel;
- Other topics where privacy is important or public disclosure could cause harm.

No final action on any issue may be taken at a closed meeting.

The DuPage County State's Attorney's Office stands prepared to investigate any complaint of violation of the Open Meetings Act. Where appropriate, civil and/or criminal proceedings will be brought to ensure that governmental officials obey the law and comply with the public policy of this state.



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A Message From

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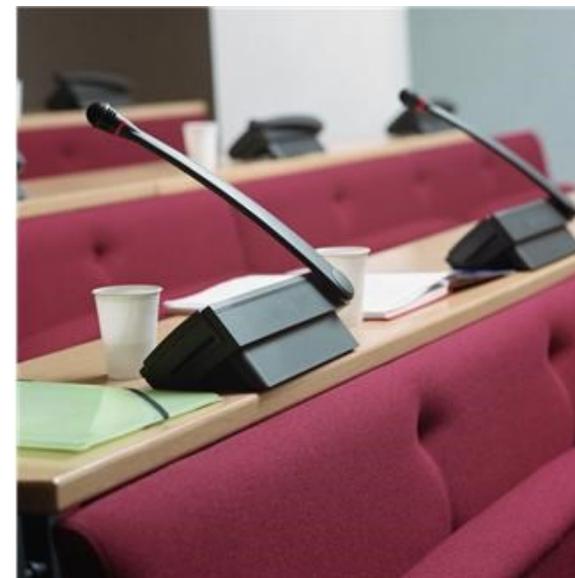
The DuPage County State's Attorney's Office is charged with the responsibility of investigating and prosecuting any violations of the Open Meetings Act.

This office serves as a resource center to all residents of DuPage County who have questions regarding how meetings of public bodies should be run, or who have questions about whether a public meeting has been run properly. If after reviewing this pamphlet, you feel that there has been a violation of the Open Meetings Act, you may file a complaint with my office in Wheaton. Also, any additional questions you may have which have not been addressed here can be directed to my office.

All government officials and citizens serving on advisory boards to government bodies must adhere to the Open Meetings Act to ensure that public business is open to the people being represented.

The DuPage County State's
Attorney's Office

**The Open
Meetings Act**



**DuPage County
State's Attorney
Robert B. Berlin**