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NF00-432 Open Meeting Law

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Open Meeting Law

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"It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret," states Nebraska state statute 84-1408. All governing bodies which make rules or spend public funds are required to hold their meetings open to the public.

What Is Meant By "Meetings"?

All regular, special, or called meetings, formal or informal, or any public body for the purposes of briefing, discussion of public business, formation of tentative policy or the taking of any action of the public body. Meetings may be held by videoconference as long as participants can see and hear participants at each other location and interaction between sites is possible.

How Are People Notified?

Advance notice must be given for all public meetings. The time and place, as recorded in the minutes, must be included. Both the governing body and the public must have notice that the meeting will take place. The notice also must contain an agenda of subjects to be addressed as known at the time of the notice or state where the current agenda is available for the public to see. An agenda may not be altered less than 24 hours before the announced meeting. Emergency items may be added at a public meeting.

What About Emergency Meetings?

If an emergency meeting is called, the news media should be notified, even though advance public notice is not required. The reason for the emergency meeting must be recorded in the minutes and any formal action taken at the meeting must relate only to the emergency. Emergency meetings may be held by phone or other telecommunications device. Complete minutes of the emergency meeting and actions taken must be available to the public no later than the end of the next regular business day.

How Are Records Kept?

Minutes must be kept of all meetings, showing the time, place, members present and absent, and a

summary of all matters discussed. Any action taken should be recorded by roll call vote, indicating how each member voted, or if absent or not voting. The vote to elect leadership within the public body may be taken by secret ballot, but total number of votes for each candidate must be recorded in the minutes.

What Constitutes Closed Sessions?

A closed session may be held if it is necessary to protect the public interest or prevent needless injury to an individual's reputation. Possible reasons for closed sessions include: discussion about collective bargaining, real estate purchases or litigation; security issues; investigating allegations of criminal misconduct; evaluation of an individual's job performance if the person has not requested a public meeting.

Closed sessions may be called by a majority vote of its members, not simply the majority of members present. The vote to go into closed session must be taken in open session. The vote of each member, the reason for the closed session, the time it began and the time it ended must be recorded in the minutes.

When in closed session, only the reason for calling the session may be discussed. Any member may challenge the continuation of the closed session if any other topic is discussed. The challenge and how it is decided must be recorded in minutes. A majority vote of the members could overrule a challenge.

No formal action can be taken in closed session. The open session must be reconvened before a motion and vote can occur.

Who Can Attend Public Meetings?

Any person has the right to attend and the right to speak at public meetings. A governing body is not required to allow the public to speak at each meeting, but may not forbid public participation at all meetings. No person is required to identify themselves in order to attend a meeting, but the governing body may require identification of those who wish to speak. A reasonable effort must be made to accommodate the public's right to hear the discussion and testimony at a public meeting. At least one copy of reproducible written material discussed at the open meeting should be available at the meeting for the public to examine or copy.

Who Enforces Open Meeting Laws?

Both the attorney general and county attorney have responsibility to enforce the public meetings statutes. Suit may be filed in district court if an alleged violation has occurred. The court may declare any actions by the governing body void if violations have occurred.

How Would You Rate The Board, Commission or Council You Are On?

- Are your meetings held at a public place that can accommodate the public?
- Are your meetings advertised so the public is informed in advance of the meetings?
- Are votes recorded by roll call vote?
- Have closed sessions been commenced and completed properly?
- Is board business discussed at chance coffee shop meetings?
- Do you use telecommunications for your meetings? According to the statute?

Source: Revised Statutes of Nebraska, Reissue of 1999.

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