

Nevada's Open Meeting Law

*Making Public Bodies Transparent
Since 1960!*

What is it?

- The Open Meeting Law “OML” is a shorthand name for chapter 241 of the Nevada Revised Statutes which place certain requirements on Public Bodies.

Why is it Necessary?

- NRS 241.010 (1) “all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”

What is Covered?

- NRS 241.020(1) Except as otherwise provided by specific statute, **all meetings of public bodies** must be open and public, and all persons must be permitted to attend any meeting of these public bodies.

Public Body?

- See also NRS 241.015(4):
 - A government body
 - 2 or more people,
 - supported by tax dollars
 - make collective decisions or recommendations
- AG's Manual states: "...to the extent that a group is appointed by a public body and is given the task of making decisions for or recommendations to the public body, the group would be governed by the Open Meeting Law."
- **This includes the Early Childhood Advisory Council (432A.076)**

What about a Sub-committee?

- If a sub-committee **recommendation to a parent body** is more than **mere fact-finding** because the sub-committee has to choose or accept options, or decide to accept certain facts while rejecting others, or if it has to make any type of choice in order to create a recommendation, then it has participated in the decision-making process and is subject to the OML. (unless specifically exempted by statute.)
- OML Manual: section 3.04

Meeting?

- NRS 241.015 (3): “The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.”
- Quorum + (Deliberation or Action)= Meeting

Why is the OML Important?

- NRS 241.036 Action taken in violation of chapter void.
- NRS 241.040 Criminal and civil penalties;
- Attorney General has subpoena authority to investigate from NRS 241.039.

How to avoid Violation

- **Enforcement against a member** of a public body based on “participation” may only occur when the member makes a commitment, promise, or casts an affirmative vote to take action on a matter under the public body’s jurisdiction or control **when the member knew** his/her commitment, promise, or vote was taken in violation of the OML.

What Does it Require?

- A lot of things, but remember the spirit:
- NRS 241.010 (1) “all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”
- Generally several components:
 - Agendas
 - Non-Meeting Conduct
 - Meetings
 - Public Access

Agendas 101

- NRS 241.020(2)(d)(1): “A **clear and complete** statement of the topics scheduled to be considered during the meeting.”
- Agenda topics must be specific to alert the public to topics that will be discussed.
- Related matters to an agenda topic may not be discussed or the public body may have strayed from the agenda.
- Items on which action may be taken must clearly denote that action may be taken. NRS 241.020(2)(d)(2)

Non-Meetings 101

- OML does not prohibit every private discussion of a public issue by members of public body or even forbid lobbying for votes, but;
- ...a quorum must not be involved.
- But $2 + 2 = 4$: NRS 241.015(2)(a)(2)(II) “The members of the public body attending one or more of the gatherings collectively constitute a quorum.”
- Texting counts too: NRS 241.015(2)(a)(2)(I): “. . . whether in person or by means of electronic communication”

Meetings 101

- Follow the Agenda
- NRS 241.020 (3) Comments by the general public must be taken:
 - (I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; **or**
 - (II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.
- This is the minimum, can allow additional comment

Public Access 101

- NRS 241.020 (1) “[A]ll persons must be permitted to attend meeting.”
- Periods of public comment must be taken, but can be restricted
- All public comment restrictions must be on Agenda
 - Restrict public speakers to the subjects within its supervision, control, jurisdiction or advisory power;
 - Limit public comment if the “speech becomes irrelevant or repetitious.”
 - Apply reasonable time limitations (2 to 5 Minutes),
 - limit caustic personal attacks.
 - **But a public body can not limit public comment based disagreement with “viewpoint” of the speaker.**
- A person or persons who “willfully disrupts a meeting to the extent its orderly conduct has been made impractical” can be removed.

Remember. . .

OPENNESS IS THE NORM,
NOT THE EXCEPTION;

The OML is:

“...for the public benefit and should be liberally construed and broadly interpreted to promote openness in government.”

*Dewey v. Redevelopment Agency of City of Reno,
119 Nev. 87, 94 (2003)*

I Still Don't Understand

- AG's Open Meeting Law Manual
(11th ed., June 2012)
- Statutory provisions
- Explanation of requirements
- Examples
- Compliance checklists
- Sample Forms: agenda, minutes and notice of meeting to consider a person's character, etc.
- **Available on the Attorney General's website at:
[www.ag.state.nv.us/Open Meeting law](http://www.ag.state.nv.us/OpenMeetinglaw) (link)**

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