

OML REFRESHER AND UPDATES



Nevada Early Childhood
Advisory Council

APPLICABILITY OF THE OPEN MEETING LAW

All **meetings** of **public bodies** must be open and public, and all persons must be permitted to attend any meeting of these public bodies at a **physical location** or by means of a **remote technology system**. NRS 241.020(1)

Administrative, legislative, and executive organizations may all be “public bodies.” (the Legislature is not-NRS 241.016(2)(a))

Public bodies working on behalf of Nevada citizens must conduct open meetings in conformity with the statutory requirements of the OML including the requirement to publish an agenda that provides full notice and disclosure of discussion topics and any possible action.

Includes subcommittees created by public bodies. NRS 241.015(5)(d).

WHAT IS A MEETING?

NRS 241.015(4) says:

- **Quorum** of members of a public body *gathering* together with:
- **Deliberation** toward a decision; and/or
- **Action**: which means making a decision, commitment or promise over a matter within the public body's supervision, jurisdiction, control or advisory power.

A quorum is a simple majority of the total body NRS 241.015(6); action requires majority vote of members present NRS 241.015(1).

Quorum + (Deliberation or Action) = Meeting

COMMON ISSUES

Serial communications or “walking quorums” can constitute a constructive meeting.

A constructive quorum can exist with less than a quorum speaking together at any given time if opinions are relayed between members.

Email pitfalls – “Reply all” email chains can constitute a meeting.

Example of a constructive quorum: Two members of a five member public body discuss how they intend to vote on an issue and why. One of those members then has that same discussion with a third member, including how both the first two members intend to vote and why. A quorum (three members) has deliberated on an issue outside of a meeting.

Members going beyond the agenda description of an agenda item or discussing non-agendized items, including responding to public comments.

KEY REQUIREMENTS

AGENDA: Must provide full notice and disclosure of discussion topics and any possible action. NRS 241.020(3)(d)(1).

DECISIONS: Deliberation and action must be properly noticed and taken openly. NRS 241.020(3)(d)(2).

PUBLIC COMMENT: at beginning/end or before any action item. NRS 241.020(3)(d)(3).

MATERIALS: Supporting materials must be available to the public when provided to public body members. NRS 241.020(8).

MINUTES: Minutes must be approved within 45 days or at the next meeting, whichever occurs later. NRS 241.035(1).

FACILITIES: Must make reasonable efforts to ensure that the facilities are large enough to accommodate the anticipated number of attendees. NRS 241.020(2).

REMOTE TECHNOLOGY SYSTEMS

“Remote technology system” means any system or other means of communication which uses any electronic, digital or other similar technology to enable a person from a remote location to attend, participate, vote or take any other action in a meeting, even though the person is not physically present at the meeting. The term includes, without limitation, teleconference and videoconference systems. NRS 241.015(6).

If used:

- A physical location can be used, but is not necessary if the members of the public body are not elected. NRS 241.023(2).
- All the members of the public body and the members of the public must be able to hear and observe the meeting, participate in the meeting, and provide live public comment. NRS 241.023(1)(b).
- The public body may also allow public comment by means of prerecorded messages also. NRS 241.023(1)(b)(2).
- Supporting material must be uploaded to the website for the public body. NRS 241.020(11).

2023 LEGISLATIVE SESSION UPDATES

Public bodies cannot hold regulation hearings virtually. There must be a physical location. AB 219

For virtual meetings, the agenda must include clear and complete instructions on how to call in for public comment. The instructions need to be read before the first public comment period. AB 219

When there is a multi-day public meeting, public comment must be taken each day. AB 219

In general, when considering quorum, public bodies can exclude vacancies when calculating whether quorum is met. AB 52

In general, only voting members are considered when calculating quorum. AB 52