

D.C. Open Meetings Amendment
Act of 2010

A User’s Guide

The public policy of the District is that all persons are entitled to full and complete information regarding the affairs of government and the actions of
those who represent them.
D.C. Code § 2-572

February 2023

When public bodies hold a meeting, the meeting must be open to the public. Only rarely can the meeting be closed. Under Washington, D.C.’s Open Meetings Act (OMA, created by the Open Meetings Amendment Act of 2010), a meeting is considered “open to the public” if either the public or news media is allowed to be physically present, or the meeting is televised. (§ 2-573(a).) The OMA specifies that it should be interpreted “broadly to maximize public access to meetings” and that exceptions to its openness requirements should “be construed narrowly . . . .” (§ 2-573.)

Allowing physical attendance by the public is not required if alternative access is provided. Emergency rules provided for virtual meetings during the public health emergency and continued afterwards because of the popularity of virtual gatherings. The law provides that a meeting is open if “the public body takes steps reasonably calculated to allow the public to view or hear the meeting while the meeting is taking place, or, if doing so is not technologically feasible, as soon thereafter as reasonably practicable.” (§ 2-575(a)(4).)

Meetings of Public Bodies

Qualifying meetings

For the Act to apply to a meeting, a quorum of the body must be present and the members present must be considering, conducting, or advising on public business. While informal and emergency meetings qualify, a chance meeting, committee meeting, social gathering, or press conference, however, does not. (§ 2-574(1).)

Meetings are any regular, special, emergency, hearing or roundtable held by a public body.

The OMA covers meetings that take place electronically (Zoom) or by telephone. (§ 2-574(1).) Email exchanges do not constitute a meeting under the Act, but those exchanges often can be obtained for review by members of the public under the D.C. Freedom of Information Act.

Covered public bodies

Every government council, board, commission, or similar entity is subject to the OMA. (§ 2-574(3).) While the D.C. Council is a public body (§ 2-574(c)), public access is governed by the Council’s rules, not the OMA. (See below.)

Government agency staff meetings are not covered. However, if an appointed board or commission supervises a government agency, the board or commission is covered by the Act. For example, the Alcoholic Beverage Control Board is covered, but the Alcoholic Beverage Regulatory Administration is not, unless the staff is meeting with the Board. D.C. Public Schools Local School Advjsory Team (LSAT) meetings are covered. Public bodies that are *not* covered include (§ 2-573(3)):

* Advisory Neighborhood Commissions (discussed below);
* D.C. courts; and
* The Mayor’s cabinet.

The Act sets out requirements for providing public notice and how meetings must be conducted. (§§ 2-576 & 577.)

Closed Meetings

When meetings of public bodies can be closed

A meeting or part of a meeting can be closed whenever a law or court order requires it, or whenever the purpose of the meeting is one of the following (§ 2-275(b)):

* To discuss with staff or negotiating agents matters related to a **contract negotiation**, but only if an open meeting would adversely affect the public body’s bargaining position.
* To discuss with staff or negotiating agents matters related to **negotiating incentives for businesses** or industries to encourage them to locate or expand in D.C.
* To obtain **legal advice from an attorney**. However, the mere presence of an attorney at a meeting is not a ground for closure.
* Planning, discussing, or conducting specific **collective bargaining negotiations**.
* Preparation, administration, or grading of scholastic, licensing, or qualifying **examinations**.
* To prevent **premature disclosure of** an honorary degree, scholarship, prize, or similar **award**.
* To discuss, take action, or receive briefings about potential terrorist activities or other **substantial dangers to public health and safety**, but only if disclosure of this information would endanger the public. If a meeting is closed for this reason, a record of the closed session must be made public when doing so would not endanger the public.
* To discuss **disciplinary matters affecting government employees**.
* To discuss matters relating to the **employment** of government employees, appointees, or officials.
* To discuss **trade secrets and commercial or financial information** obtained from outside the government, but only if disclosure would substantially harm the competitive position of the information’s owner.
* To **train** and develop members of a public body and staff.
* To deliberate upon a decision in an **adjudication action** or proceeding, but only if the public body has quasi-judicial functions.
* To discuss or hear about an **investigation** of alleged criminal or civil misconduct, but only if disclosure would harm an ongoing investigation.

When a meeting is closed for a specific reason, no other matters may be discussed during the closed session. (§ 2-275(d).)

Procedures for Closing a Meeting

Before closing a meeting for any reason, the public body must meet in a public session, and a majority must vote in favor of closure. The subject to be discussed, reasons for closure, and results of the vote to close the meeting must be announced and made public *before* the closed meeting begins. (§ 2-275(c).) If the public body takes a vote or makes final determinations during a closed session, the public body must immediately reconvene in public session and read onto the public record the roll call vote and the final action – subject to any OMA exceptions.

Gaining access to records of past meetings

Where feasible, all public meetings must be recorded[[1]](#footnote-2)\* and, where not feasible, detailed minutes must be kept. Meeting minutes must be publicly available within three days of the meeting, and the full record must be available within seven days of the meeting. (§ 2-578.)

Proper notice of meetings

Public bodies must provide a minimum of 48 hours or 2 business days notice, whichever is greater, of any upcoming meeting. Notice of a meeting must be a physical posting at the location in which the meeting will occur; must be posted on the public body’s website; must include the time, date and location of the meeting and the draft agenda of the meeting; and, if there is an anticipated closed session, must include the proper legal citation to the applicable exceptions to the OMA that allow meeting closure. (§ 2-577.) If any of this information is missing, notice of the meeting is considered to be deficient, and a complaint may be properly filed with the Office of Open Government. The physical posting requirement is suspended for the period of the public health emergency and through December 2023. (§ 2-576(6).)

D.C. Council Meetings

The D.C. Council is a covered public body under the OMA, but the Act gives the Council authority to enact its own rules implementing the Act’s open meetings policy. Those rules cannot modify the definition of “meeting” under the Act or what it means for a meeting to be open. Traditionally, the Council adopts operating rules at the beginning of each two-year Council period. Unless and until it adopts rules, the Open Meetings Act governs meetings of the Council as it does meetings of other public bodies. (§ 2-574(f).) The Council’s current rules applicable to Open Meetings can be found at <https://lims.dccouncil.gov/downloads/LIMS/51944/Meeting1/Enrollment/PR25-0001-Enrollment5.pdf>, §§ 371-376 (pp. 56-60).

Advisory Neighborhood Commission Meetings

The Act does not cover meetings of Advisory Neighborhood Commissions (ANCs). Nonetheless, the ANCs’ authorizing statute requires that their meetings be open unless personnel or legal matters are discussed. (*See* the Advisory Neighborhood Councils Act of 1975, D.C. Code 1-309.11, as amended by § 3 of the Open Meetings Amendment Act of 2010.)

Open Meetings Act Complaints

The Open Meetings Act is enforced by the Office of Open Government (OOG). The OOG issues advisory opinions interpreting the OMA (https://www.open-dc.gov/documents/advisory-opinions) and has the sole authority to resolve complaints regarding compliance with that Act. Complaints may be submitted to the OOG by any member of the public and may be submitted online via the OMA Complaint Form found at https://www.open-dc.gov/sites/default/files/files/OMA\_Complaint\_Form.pdf, in person, via email, or via U.S. mail addressed to the Office of Open Government, 441 4th Street NW, Suite 830 South. Complaints mailed to the OOG should be clearly marked “Open Meetings Complaint.” Emailed complaints should be addressed to opengovoffice@dc.gov and must include “Open Meetings Complaint” in the subject line.

Complaints should include details of the meeting (that is, the public body, date, and time of the meeting) and, if possible, a description of how you believe the OMA was violated.

As part of its enforcement authority, the OOG may sue a public body for failure to comply with the OMA. If successful, a court can prohibit the public body from closing future meetings, or order the public body to disclose the record of the closed meeting. (§ 2-579(c).) The Superior Court did this in the case of the *Office of Open Government vs. the Mayor’s Advisory Commission on Caribbean Community Affairs* where the Commission had consistently failed to properly notice its meetings and publish meeting minutes. The Court’s 2018 opinion can be found at <https://www.open-dc.gov/documents/maccca-final-order>.

If the court finds that an official action was taken at the illegally closed meeting, it may order an appropriate remedy, which may include voiding any official action taken in the meeting. (§ 2-579(d).)

Conclusion

Much of the business of the District of Columbia government is done at meetings of public bodies that are required by the Open Meetings Act to provide advance notice of the meetings, to open them at least virtually to the public, and to provide the public afterwards with a record of what went on at the meetings. While, unlike under the District’s Freedom of Information Act and the open meetings acts of other jurisdictions, a member of the public cannot go to court to seek redress for a violation of the Act, the Office of Open Government is available and empowered to remedy OMA violations and has proved willing in the past to do so. Note also, unlike open meetings laws in some states, the OMA does not provide a general right for the public to speak at a covered meeting.

REFERENCES/SOURCES:

A list of Boards and Commissions may be found at: <https://www.open-dc.gov/public-bodies>

A central calendar of public body meetings may be found at: <https://www.open-dc.gov/public-bodies/meetings>

Read the full Open Meetings Act here: <https://code.dccouncil.us/dc/council/code/titles/2/chapters/5/subchapters/IV/>

**The D.C. Open Government Coalition**

The D.C. Open Government Coalition seeks to enhance the public’s access to government information and ensure the transparency of government operations of the District of Columbia. We believe that transparency promotes civic engagement and is critical to responsive and accountable government. We strive to improve the processes by which the public gains access to government records and proceedings, and to educate the public and government officials about the principles and benefits of open government in a democratic society. Visit our website at [www.dcogc.org](http://www.dcogc.org).

***This guide is only for use as general information. It is not intended to be legal advice about any specific situation. For legal advice, consult a qualified attorney. The Coalition may be able to help you locate an attorney. The contents of this guide are up to date as of February 2023.***

D.C. Open Government Coalition
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[www.dcogc.org](file:///C%3A%5CUsers%5Cmxmoore%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5COL2IUV6J%5Cwww.dcogc.org)

1. \* The Office of Open Government issued an opinion in 2013 observing that technology has made it feasible for *all* meetings, at a minimum, to be audio-recorded. <https://www.open-dc.gov/sites/default/files/12.12.13%20OOG%20Opinon_HPTF_Meeting%20Record_Minutes%20Audio%20Video%20Transcripts.pdf>. [↑](#footnote-ref-2)