

# **REQUIREMENTS OF THE OPEN MEETINGS ACT**

July 1996

## **Lawyers' School Reform Advisory Project**

100 North LaSalle Street - Sixth Floor

Chicago, Illinois 60602

(312) 332-2494/(312) 630-9744 (TDD)

e-mail: [zohagin@clccrul.org](mailto:zohagin@clccrul.org)

The Illinois School Code requires that local school councils comply with the Illinois Open Meetings Act (OMA). The requirements of the OMA are described below.

## **When Does the OMA Apply?**

### **What is a meeting?**

Under the Open Meetings Act, a “meeting” is “any gathering of a majority of a quorum” of the public body covered by the Act. The School Code defines a quorum as a majority of the full membership of the LSC. Therefore, any gathering of four or more LSC members is covered by the Open Meetings Act, if it is held for the purpose of discussing public business.

### **Does the OMA apply to all meetings?**

The OMA applies to all LSC meetings. It also applies to meetings of subsidiary bodies of LSCs such as committees and sub-committees—even if there are fewer than four members on the committee and even where committees include non-LSC members. For a committee (or sub-committee), any gathering of a majority of a quorum of the committee (or subcommittee) is covered by the Open Meetings Act. For example, if an LSC committee has five members, the requirements of the OMA apply to any gathering of two or more of the members of the committee to discuss committee business.

The OMA does not apply to purely social gatherings where LSC business is not discussed. If a social gathering of four or more LSC members turns to consideration of LSC business, it becomes a “meeting” under the OMA. Also, the OMA does not apply to sessions or retreats arranged solely to provide training for LSC members.

## **Public Notice and Participation**

### **Is public notice of meetings required?**

Yes. The School Code requires that public notice of LSC meetings be given in accordance with the OMA.

*Regular Meetings:* Each LSC must set a schedule of the time and place of its regular meetings at the LSC's first organizational meeting and publicize that schedule. An agenda must be posted at least 48 hours in advance of holding every regular meeting. However, items not specifically stated in the agenda may still be considered at the regular meeting.

If a change is made in the schedule of its regular meetings (change in the standard day, time, or place of regular meetings), the LSC must give at least 10 days' notice of the change by publication in a newspaper of general circulation in the school community that the LSC serves. Notice of such change must also be posted at the school.

*Special, Rescheduled Regular or Reconvened Meetings:* Each LSC must give public notice of any special, rescheduled regular or reconvened meeting at least 48 hours before that meeting is held. The agenda of the special, rescheduled regular or reconvened meeting must be included in the public notice. These notice requirements do not apply to reconvened meetings if the meeting was open to the public and either the reconvened meeting is held within 24 hours after the original meeting or an announcement of the reconvened meeting was made at the original meeting and there was no change in the agenda.

In addition, the School Code requires that written notice of meetings be given to LSC members before any special or rescheduled regular meeting.

### **What is public notice?**

Public notice of LSC meetings (open or closed) should be given by posting a copy of the meeting notice at the school and, if the meeting is not to be held at the school, at the meeting place. If newspapers or other news media have filed a request for such notice with the LSC, the LSC should supply them with a notice of its regular meetings and any special or rescheduled meetings.

### **Does the OMA require public participation in public LSC meetings?**

Although the opportunity for public participation at LSC meetings is not mandated by the law, it is consistent with the intent and spirit of the OMA and the School Code, and is therefore strongly encouraged. Public participation should be subject to reasonable rules and/or bylaws adopted and published by each LSC.

*Please Note:* Under the School Code, the LSC is required to provide opportunity for public comment on the school improvement plan and the school expenditure plan at two well-publicized community meetings each year.

### **Must an LSC provide translators at meeting?**

Under the School Code, LSCs are encouraged to provide translators at LSC meetings to maximize the participation of parents and the community. Thus, if a translator is

available, the LSC should allow translation during meetings. If a translator is not available, the LSC may use appropriate resources to pay for one, although it is not required to do so. The LSC's decision should be made in light of the requirements under both the School Code and the OMA to have the public informed of the LSC's business and to maximize participation of parents and the school community.

### **Are there any restrictions on where and when LSC meetings can be held?**

All public meetings must be held at a time and place convenient and open to the public. No public meeting can be held on a legal holiday (unless the regular meeting date falls on a holiday).

### **When and How a Meeting May Be Closed**

#### **Are there EXCEPTIONS to the requirement that LSC meetings be open to the public?**

The OMA requires that *all* meetings of public bodies like LSCs be public, with certain **strictly construed** exceptions. Strictly construed means that the language of the exception will be read in as limited a way as possible. You *may* close your LSC meeting only to discuss one or more of the following:

1. litigation if an action against, affecting, or on behalf of the LSC or LSC members has been filed and is pending, or  
when the LSC finds that such an action is probable or imminent, in which case the basis for the finding must be  
entered in the minutes;
2. the evaluation, selection, retention, or request for suspension or dismissal of the school principal (or other school  
employee); this exception does not apply to discussions about principal evaluation or selection procedures; it does  
apply to discussions about or interviews with the current principal or particular candidates for principal;
3. the terms of the principal's employment, additions to the principal's performance contract, or the LSC's  
negotiating position on contract additions;
4. the appointment of a particular person to fill a vacancy in the membership of the LSC;
5. discussion of minutes of meetings lawfully closed under the OMA whether for approval purposes or to conduct  
the mandated semi-annual review of the minutes;

6. emergency procedures to respond to actual danger to school staff, students, or school property; the actual danger must be described in the motion to close the meeting;
7. any matters involving individual students, including but not limited to individual discipline cases or individual placement in special education programs; and
8. the purchase or lease of real estate, or the setting of a price for sale or lease of any property.

A closed meeting is sometimes called an "executive session."

### **Can the LSC take a final vote in a closed meeting?**

No. Although the LSC can discuss and deliberate certain matters at a closed meeting, no final action may be taken at a closed meeting. In addition, when the LSC takes final action at an open meeting concerning matters discussed at a closed meeting, it must first give the public a general explanation of the business being decided.

### **Must the LSC vote to close a meeting?**

Yes. To hold a closed meeting or series of closed meetings at a later date, or to go directly into a closed meeting, the LSC must take a vote at an open public meeting. Each member's vote on whether or not to close a meeting, as well as the OMA exception that allows the meeting to be closed, must be publicly stated at the time of the vote and must be recorded in the minutes. Only topics specified in the vote to close the meeting may be considered in the closed meeting.

If a closed meeting is to be held at a later date, public notice of the meeting should be posted 48 hours in advance.

### **May the LSC vote to close several meetings in a row?**

Yes. A single vote on a motion to close a series of meetings (either partially or totally) may be taken at a meeting, provided that each meeting in the same series involves the same particular matters. The meetings must all take place within three months after the vote.

## **Meeting Records**

### **What records must be kept of LSC meetings?**

LSCs must keep written minutes of all their meetings, whether open or closed. The minutes should include at least the following:

1. date, time and place of the meeting;
2. names of all LSC members recorded as present or absent;
3. a summary discussion on all matters proposed, deliberated or decided, including a record of any votes taken  
(number in favor, number opposed, and number abstaining).

Minutes of *open* meetings must be available for public inspection within 7 days after their approval by the LSC. Under Robert's Rules, minutes should be corrected, if necessary, and approved at the next regularly scheduled meeting.

Minutes of *closed* meetings will be made available to the public only after the LSC determines that it is no longer necessary to keep them confidential. The LSC must review minutes of closed meetings at least every six months, to determine whether they should remain confidential, or become available for public inspection. The determination made must be reported in open session.

## **Consequences of Noncompliance**

### **What can happen if an LSC does not comply with the requirements of the OMA?**

Any person, including the State's Attorney, may sue the LSC alleging violations of the Open Meetings Act. Such a suit must be brought no later than 60 days after the meeting that was alleged to have violated the Open Meetings Act, except that, if facts concerning the meeting are not known within the 60-day period, the suit must be brought within 60 days after the State's Attorney discovers the violation. The court may grant any appropriate relief, including voiding actions taken at meetings in violation of the Open Meetings Act. Therefore, an LSC that has taken action at a meeting that does not comply with the Open Meetings Act may want to ratify (vote on again) that action at a meeting that does comply with the requirements of the Open Meetings Act.

## **Miscellaneous**

### **Who can call a special LSC meeting?**

The School Code states that special meetings of the LSC may be called either by the chairperson or by any four LSC members, provided notice of such a meeting is given in writing to other members. Public notice must be given at least 48 hours in advance. It is always the role of the chair (or a person designated by the LSC bylaws to preside in the absence of the chair) to preside at meetings, even if a meeting is called by other members.

### **Can the LSC vote by written or secret ballot?**

No. The public is entitled to know how its representatives on the LSC vote on issues. Voting must be done by show of hands or roll call.

Must the LSC allow taping or filming of an open meeting?

Yes. Any public meeting may be recorded by any person—by tape, film or other means—subject to reasonable rules prescribed by the LSC.

**Can an LSC member be present at a meeting by use of a telecommunications device?**

Yes. If the LSC bylaws permit participation by telecommunications device (such as a speakerphone), it may be used, so long as every LSC member present can hear the absent member(s), and so long as the absent member(s) can hear the discussion.

It is not permissible for one member of the LSC to talk on a regular phone to an absent member, and report the conversation. This is not “being present,” and the person cannot be considered present for purposes of determining whether a quorum is present and cannot vote on any motion before the LSC.

*Remember: The community has a right to information about the governance of its public schools. Potential litigation that alleges violations of the OMA can best be avoided by strict compliance with the letter and spirit of the School Code and the Open Meetings Act.*

**If you have questions about the Open Meetings Act or any other aspect of the school reform law, please call the Lawyers’ School Reform Advisory Project at 312/332-2494. There is no charge for assistance.**