

State Public Bodies and the Open Meeting Law

This handout is meant to assist state employees in determining which state agency groups are subject to the requirements of the Open Meeting Law, Minnesota Statutes, Chapter 13D.

The Law's Requirements

Minnesota Statutes, section 13D.01, subdivision 1(a) provides:

All meetings, including executive sessions, must be open to the public

(a) of a state

- (1) agency,
- (2) board,
- (3) commission, or
- (4) department,

when required or permitted by law to transact public business in a meeting...

Much of the business conducted by various state bodies is not required or permitted “by law” to be done in a meeting. Therefore, many meetings held by state agencies, boards, commissions or departments are not necessarily subject to the Open Meeting Law (e.g., staff meetings, brainstorming sessions, etc.). While agencies may ultimately determine that groups are not subject to Chapter 13D, they are encouraged to hold open meetings to promote transparency and community engagement.

General Considerations

Though the Open Meeting Law does not contain precise rules as to which state groups are subject, the following may be helpful to state agency staff in consultation with their legal counsel in making the determination.

- How was the group created?
- Who appoints the members?
- Who chairs or provides administrative support for the group?
- What gives the group power to make decisions or recommendations?
- What duties and powers have been granted to the body?

Who is Subject to the Open Meeting Law?

State bodies covered by section 13D.01, subdivision 1(a) are generally those:

- Multi-member groups where decision-making authority lies with the group (rather than with the Governor, Commissioner, or an executive director) such as the Minnesota State Arts Board, Board of Nursing, and Board of Teaching

- Multi-member groups created by statute where the chair or the administrative support comes from a state agency
- Created by the governor, such as the Drive to Excellence steering committees or the Minnesota Bioscience Council
- Created by the commissioner of a state department or a board under section 15.014 (advisory task forces)
- Bodies whose membership is filled under section 15.0597 (Open Appointments Act), or other state law
- Multi-member groups established by a state agency on proposed rulemaking (see Minnesota Statutes, section 14.101, subdivision 2)
- With governmental powers (i.e., the power to regulate, license, make public policy, or determine the use of public resources or otherwise transact public business)

Bodies that may not be subject to the Open Meeting Law are those:

- Ad-hoc advisory groups convened by division, bureaus or other unit of a state agency
- Not having ultimate decision-making authority (i.e., the Commissioner or Governor makes final decision); or
- Not required to transact public business in a meeting.

Related Advisory Opinions

Opinion 08-018: The Commissioner interpreted the phrase “transact public business” to conclude that the legislatively-mandated Drug Formulary Committee appointed by the Commissioner of the Department of Human Services was subject to the Open Meeting Law.

Opinion 08-034: The Commissioner opined that a task force was akin to a board or commission concluding that the Ultra-High Speed Broadband Task Force created by the Legislature was subject to the Open Meeting Law.