DEPARTMENT OF ADMINISTRATION

Open Meeting Law Overview
Chapter 13D

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Data Practices Office

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Open Meetings

- With limited exceptions, all meetings of public bodies must be open to the public
  - The public can attend open meetings
- Minnesota Supreme Court stated three purposes for the OML:
  - To prohibit actions taken at secret meetings
  - To assure the public's right to be informed
  - To give the public an opportunity to present its views to the public body
    - BUT the OML does not require public bodies to reserve time for public comment

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What is a "meeting" subject to the law?

- Gatherings subject to the law
  - The "quorum rule" (*Moberg v. Independent School District No. 281*, 336 N.W.2d 510 (Minn. 1983).)
    1. Quorum (majority) or more of full public body, or quorum of any of the public body's committees, subcommittees, etc. – and
    2. Quorum (majority) discusses, decides, or receives information as a group on issues relating to its official business
- Gatherings not subject to the law
  - Gatherings of less than a quorum of members
  - Chance or social
  - Training/team building activities so long as business is not discussed
- Keep in mind – public perception!

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Special Considerations

- Use of email
  - Avoid "discussion"
  - Advisory Opinion 09-020:
    - Public body did not comply with OML when exchanging certain email messages relating to official activities
    - One-way communication between the chair/staff and members of a public body is permissible, such as sending meeting materials via email to all board members, with no discussion or decision-making
- "Serial meetings"
  - Meetings of less than a quorum
  - Avoid public meetings to fashion agreement
  - Might be a violation

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Types of Meetings

- Regular meetings
  - Schedule of meetings on file at primary office or posted on the website
- Special meetings
  - Any meeting not on the regular schedule
  - 3-day advance posting on website, including date, time, place, and meeting purpose
- Emergency meetings
  - Special meetings called because circumstances don't allow for a 3-day prior notice
  - Good faith effort to notify media that requested notice

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Closed Meetings

- Meetings can be closed only if required or permitted in the law
- All closed meetings must be recorded (attorney-client exception)
- No general "personnel exception" to close a meeting
- Statement on the record before closing a meeting
  - Legal authority to close the meeting
  - Describe what will be discussed

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Meetings & Technology

Minnesota Statutes, section 13D.015

- ***State-level*** public bodies may hold phone or interactive tech meetings at **any time** if conditions are met
- Requirements:
  - All members can hear one another and testimony
  - Public can hear discussion, votes, testimony
  - One member of the entity is physically in the regular meeting room
  - Votes taken by roll call
- Public may monitor from remote site, if practicable
- Notice that members may participate remotely
- 10 days in advance web-posting requirement for regular meetings

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Penalties & Remedies

- Intentional violation
  - Personal liability - $300 fine
- Three, separate intentional violations
  - Forfeit office
- Reasonable costs, disbursements, attorney fees
- No reversal of public body actions taken while in violation of the law

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Data Practices Office (DPO)

- Statewide resource on Minnesota's data practices and open meeting laws
  - Informal advice/technical assistance to government, public, media and Legislature
  - Website, newsletters, Twitter
  - Advisory opinions
  - Legislative assistance
  - Training

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Questions?

DPO Contact Information

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Thank you!

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