

KENTUCKY OPEN MEETINGS LAW

What constitutes an open meeting?

The term “meeting” is broadly defined in Kentucky’s Revised Statutes to mean “all gatherings of every kind, including video teleconferences, regardless of where the meeting is held, and whether regular or special and informational or casual gatherings, held in anticipation of or in conjunction with a regular or special meeting.”

What entities and individuals are covered by the open meetings law?

- Every state or local government agency, including the policymaking board of an institution of education.
- Any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government.
- Any entity when the majority of its governing body is appointed by a public agency...member or employee of a public agency, a state or local officer, or any combination thereof.

Do groups created by public agencies meet the definition of a public agency?

Most groups created by public agencies meet the definition of public agency, including any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency established, created, and controlled by a public agency.

What are some exceptions to the open meetings law?

- Deliberations on the future acquisition of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency.
- Discussions of proposed or pending litigation against or on behalf of the public agency.

- Collective bargaining discussions between employers and their employees or their representatives.
- Discussions or hearings that might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting the right of that employee, member, or student to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret.
- Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussion would jeopardize the siting, retention, expansion, or upgrading of the business.
- State and local cabinet meetings and executive cabinet meetings.
- Meetings which federal or state law specifically require be conducted in privacy.

What are the rules concerning closed sessions?

- Notice must be given in open session of the nature of the business, the reason for the closed session, and the specific statutory exception.
- A majority of the board must approve the closed session.
- No final action may be taken in closed session.
- **No matter may be discussed at a closed session other than those publicly announced.**

Other issues?

Boards may not meet in small groups of less than a quorum to avoid conducting an open meeting. However, nothing in the law prohibits discussion among individual members when their purpose is to educate themselves on specific issues.

This summary is intended to acquaint board members with the Kentucky open meetings law and should not be relied on as legal advice. Regents and trustees should consult their board attorneys for advice on a particular issue or concern.

KENTUCKY OPEN RECORDS LAW

How is the term “public record” defined in the statutes?

The term “public record” is defined as “all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, or retained by a public agency.”

How are “agencies” defined in the open records statutes?

- Every state or local government officer.
- Every state or local government department, division, bureau, board, commission, and authority.
- Every state or local government agency, including the policymaking board of an institution, created by or pursuant to state or local statute, executive order, ordinance, resolution, or legislative act.
- Any body that derives at least 25 percent of the funds expended by it in the Commonwealth of Kentucky from state or local authority funds.
- Any entity where the majority of its governing board is appointed by a public agency, by a member or employee of such a public agency, or by any combination thereof.
- Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established, created, and controlled by a public agency.

What are the exceptions to the open records statutes?

- Public records containing information of a personal nature where the public disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Records confidentially disclosed to an agency and compiled and maintained for scientific research.
- Test questions, scoring keys, and other examination data used to administer a licensing examination, employment exams, or academic examination before the exam is given.

- The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired.
- Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication.
- Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency.
- Preliminary recommendations and preliminary memoranda in which opinions are expressed or policies formulated or recommended.
- The disclosure of public records prohibited by federal law or regulation.
- Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

What are the policies about releasing the open records documents?

Agencies may require written requests. Under most circumstances, agencies must make public records available within three days. If the requested record cannot be produced within three days, the agency must explain in detail. Agencies may deny requests if unreasonably burdensome or if agencies, citing clear and convincing evidence, have reason to think repeated requests are intended to disrupt the agencies’ other essential functions. People inspecting public records have the right to make or obtain a copy.

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