



STATE OF NORTH CAROLINA
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BEVERLY EAVES PERDUE
GOVERNOR

April 16, 2009

Mr. William Horton
2701 Mail Service Center
Raleigh, NC 27699

Dear William,

Thank you for your commitment and service to North Carolina. As a member of one of North Carolina's boards and commissions, your leadership can play an important role in shaping North Carolina's future.

As governor, I have promised the citizens of North Carolina a government that works for them – one that is transparent and accountable. By operating under an umbrella of openness, we all can help restore the public's faith in state government.

I expect every state board and commission to set the same standard of openness and transparency and to fully comply with North Carolina's Open Meetings Act. If you are uncertain as to whether a particular meeting or event is subject to the Act, I urge you to err on the side of openness. For your information, attached is a summary of the statutes concerning open meetings, and you also may call my General Counsel's office at 919-715-8429 for further guidance.

With kindest regards, I remain

Sincerely,

A handwritten signature in cursive script that reads "Bev".

Bev Perdue

BP: kh





Open Meetings: Questions and Answers

North Carolina Department of Justice

Attorney General Roy Cooper

1. What is the public policy of North Carolina concerning meetings of public bodies?

The North Carolina General Assembly has declared it to be the public policy of North Carolina that the hearings, deliberations, and actions of public bodies be conducted publicly.

N.C.G.S. § 143-318.9

2. What are public bodies?

Groups that are required to hold their official meetings publicly ("public bodies") include government authorities, boards, commissions, committees, councils, or other bodies. The law applies to all these bodies of the State, or of one or more counties, cities, school administrative units, constituent institutions of the University of North Carolina, or other political subdivisions or public corporations in the State. These groups are public bodies if they have two or more members, if their members are elected or appointed, and if they exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function.

N.C.G.S. § 143-318.10(b) & (c)

3. What are official meetings?

An official meeting is a meeting, assembly, or gathering together of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, voting upon public business, or otherwise transacting public business.

N.C.G.S. § 143-318.10(e)

4. What kind of public notice is required for official meetings?

Notice is required for all public meetings. The Open Meetings Law contains detailed procedures that public bodies must follow to give the public advance notice of their official meetings. Requirements differ depending on whether the official meeting is a regular meeting, a meeting other than a regular meeting, or an emergency meeting.

N.C.G.S. § 143-318.12

5. Is a public body required to set up a schedule of regular meetings?

A public body is not required to set up a schedule of regular meetings. However, if a public body does make a schedule of regular meetings it is required to keep a copy of that schedule on file with a clerk or secretary.

N.C.G.S. § 143-318.12

6. Does the open meetings law guarantee the public's right to speak at official meetings?

All people and media have the right to attend official meetings of public bodies.

N.C.G.S. § 143-318.10(a)

However, the Open Meetings Law does not give members of the public the automatic right to speak or participate in an official meeting. In fact, if a person interrupts, disturbs, or disrupts an official meeting, the presiding officer may direct that person to leave the meeting. If that happens and the disruptive person refuses to leave, he may be charged with a misdemeanor.

N.C.G.S. § 143-318.17

Note: There is a difference between public meetings and public hearings. Public hearings, which are mandated by statute, generally include a provision for public comment. The Open Meetings Law does not apply to public hearings.

7. What are the public's rights to listen to electronic meetings?

A public body may hold a meeting by conference telephone or other electronic means. If it does so, it has to provide a location and means for members of the public to listen to the meeting. The meeting notice should indicate where the public may listen. The public body may charge up to twenty-five dollars to each listener to help pay for the cost of providing the location and listening equipment.

N.C.G.S. § 143-318.13(a)

8. What are the public's rights to record and/or broadcast official meetings?

Any person may photograph, film, tape-record, or otherwise reproduce any part of an official meeting required to be open. Radio and television stations are entitled to broadcast all or any part of an official meeting required to be open.

N.C.G.S. § 143-318.14

9. May public bodies conceal the subject of their actions or deliberations?

If members of a public body deliberate, vote or take other action on a matter at an official meeting, they must do so in a way that allows the public in attendance to understand what subject is being considered.

N.C.G.S. § 143-318.13 (c)

10. May public bodies vote by secret ballot?

Public bodies may not vote by secret ballot.

N.C.G.S. § 143-318.13(b)

11. May public bodies call emergency meetings?

Public bodies may call emergency meetings if there are generally unexpected circumstances that require immediate consideration by the public body. At an emergency meeting, the public body may consider only the business connected with the emergency circumstances.

N.C.G.S. § 143-318.12(b)(3)

12. Must public bodies keep minutes of official meetings?

Every public body is required to keep full and accurate minutes of all official meetings (including closed sessions). Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Minutes of legitimate closed sessions are public records, but they may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session. The minutes of open sessions and accounts of closed sessions may be in written form or video and/or audio recordings.

N.C.G.S. § 143-318.10(e)

13. May a public body ever hold a closed Session of an official meeting?

The Open Meetings Law permits public bodies to exclude the public from certain portions of official meetings. These are referred to as closed sessions. The subjects that may be discussed and the actions that may be taken in closed sessions are listed specifically in the Open Meetings Law, and only these things may be considered during a closed session.

N.C.G.S. § 143-318.11

14. What is the procedure for holding a closed session?

A public body may hold a closed session only if it first begins an open official meeting after proper public notice. During the open part of the official meeting, the public body must make and adopt a motion to hold a closed session. In making the motion to hold a closed session, the public body must state which of the legally acceptable purposes it is relying upon to justify the closed session.

N.C.G.S. § 143-318.11(a)

15. What are the permitted purposes for holding closed sessions?

The Open Meetings Law says that a public body may hold a closed session during one of its official meetings only when a closed session is required to prevent public disclosure of the following seven types of information: legally confidential information, honorary degrees, scholarships, prizes and awards, attorney-client discussions, location or expansion of businesses (including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations), contract negotiations, certain personnel matters, and criminal investigations.

N.C.G.S. § 143-318.11(a)

16. What are the civil remedies for violations of Open Meetings Law?

Any person may bring a civil court action against a public body for past violations or possible future violations of the Open Meetings Law. If the person bringing a suit shows that the public body violated or is going to violate the Open Meetings Law, the court may issue an injunction. An injunction may prohibit a threatened violation of the law, or prevent past violations of the law from recurring. As with the Public Records Law, the Attorney General's Office has no enforcement authority with respect to the Open meetings Law. *Only a court may enforce this law.*

N.C.G.S. § 143-318.16(a)

Note: While the Attorney General's Office may answer questions about open meetings' issues, they do not have enforcement authority. Only a court may enforce this law.

17. Are all public bodies subject to the Open Meetings Law?

The Open Meetings Law specifies several public agencies or organizations that are not subject to the law. For example, the term public body does not include (1) a meeting solely among the professional staff of the public body, or (2) the medical staff of a public hospital. Further, this law does not apply to Grand and petit juries, the Judicial Standards Commission, and the Legislative Ethics Committee among others.

N.C.G.S. §§ 143-318.10(c) & 143-318.18