**MISSISSIPPI**

**The Open Meetings Act**

**MISSISSIPPI CODE OF 1972**

**CHAPTER 41. OPEN MEETINGS**

**§ 25-41-1. Legislative Declaration**

It being essential to the fundamental philosophy of the American constitutional form of representative government and to the maintenance of a democratic society that public business be performed in an open and public manner, and that citizens be advised of and be aware of the performance of public officials and the deliberations and decisions that go into the making of public policy, it is hereby declared to be the policy of the State of Mississippi that **the formation and determination of public policy is public business and shall be conducted at open meetings except as otherwise provided herein.**

**§ 25-41-3. Definitions**

For purposes of this chapter, the following words shall have the meaning ascribed herein, to wit:

(a)        "Public body" means any executive or administrative board, commission, authority, council, department, agency, bureau or any other policymaking entity, or committee thereof, of the State of Mississippi, or any political subdivision or municipal corporation of the state, whether the entity be created by statute or executive order, which is supported wholly or in part by public funds or expends public funds, and any standing, interim or special committee of the Mississippi Legislature. The term "public body" includes the governing board of a charter school authorized by the Mississippi Charter School Authorizer Board and the board of trustees of a community hospital as defined in Section 41-13-10. There shall be exempted from the provisions of this chapter:

(i)                 The judiciary, including all jury deliberations;

(ii)               Law enforcement officials;

(iii)             The military;

(iv)             The State Probation and Parole Board;

(v)               The Workers' Compensation Commission;

(vi)             Legislative subcommittees and legislative conference committees;

(vii)           The arbitration council established in Section 69-3-19;

(viii)         License revocation, suspension and disciplinary proceedings held by the Mississippi State Board of Dental Examiners; and

(ix)             Hearings and meetings of the Board of Tax Appeals and of the hearing officers and the board of review of the Department of Revenue as provided in Section 27-77-

15. (b)        "Meeting" means an assemblage of members of a public body at which official acts may be taken upon a matter over which the public body has supervision, control, jurisdiction or advisory power, including an assemblage through the use of video or teleconference devices that conforms to Section 25-41-5.

**§ 25-41-5. Official Meetings of Public Bodies**

(1**)        All official meetings of any public body, unless otherwise provided in this chapter or in the Constitutions of the United States of America or the State of Mississippi, are declared to be public meetings and shall be open to the public at all times unless declared an executive session as provided in Section  25-41-7.**

(2)        A public body may conduct any meeting through teleconference or video means. A quorum of a public body as prescribed by law may be at different locations for the purpose of conducting a meeting through teleconference or video means provided that the equipment used is located at the place where the public body normally meets or at a public location specified in any notice of a special meeting, and provided that the equipment allows all members of the public body and members of the public who attend the meeting to hear the deliberations of the public body.

(3)        An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to the members of the public body shall be made available to the public at the time of the meeting. Votes taken during any meeting conducted through teleconference or video means shall be taken in a manner that is clearly audible or visible to all members of the public body and to members of the public present at the public location.

**§ 25-41-7. Public Body Holding Executive Sessions**

(1**)        Any public body may enter into executive session for the transaction of public business; however, all meetings of any public body shall commence as an open meeting, and an affirmative vote of three-fifths (3/5) of all members present shall be required to declare an executive session.**

(2)        The procedure to be followed by any public body in declaring an executive session shall be as follows: Any member shall have the right to request by motion a closed determination upon the issue of whether or not to declare an executive session. The motion, by majority vote, shall require the meeting to be closed for a preliminary determination of the necessity for executive session. No other business shall be transacted until the discussion of the nature of the matter requiring executive session has been completed and a vote, as required in subsection (1) hereof, has been taken on the issue.

(3)        **An executive session shall be limited to matters allowed to be exempted from open meetings by subsection (4) of this section. The reason for holding an executive session shall be stated in an open meeting, and the reason so stated shall be recorded in the minutes of the meeting.** Nothing in this section shall be construed to require that any meeting be closed to the public, nor shall any executive session be used to circumvent or to defeat the purposes of this chapter.

(4)        A public body may hold an executive session pursuant to this section for one or more of the following reasons:

(a)        Transaction of business and discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position, or matters relating to the terms of any potential or current employment or services agreement with any physicians or other employees of public hospitals, including any discussion of any person applying for medical staff privileges or membership with a public hospital.

(b)        Strategy sessions or negotiations with respect to prospective litigation, litigation or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body.

(c)        Transaction of business and discussion regarding the report, development or course of action regarding security personnel, plans or devices.

(d)       Investigative proceedings by any public body regarding allegations of misconduct or violation of law.

(e)        Any body of the Legislature which is meeting on matters within the jurisdiction of that body.

(f)        Cases of extraordinary emergency which would pose immediate or irrevocable harm or damage to persons or property, or both, within the jurisdiction of the public body.

(g)        Transaction of business and discussion regarding the prospective purchase, sale or leasing of lands.

(h)        Discussions between a school board and individual students who attend a school within the jurisdiction of the school board or the parents or teachers of the students regarding problems of the students or their parents or teachers.

(i)         Transaction of business and discussion concerning the preparation of tests for admission to practice in recognized professions.

(j)         Transaction of business and discussions or negotiations regarding the location, relocation or expansion of a business, medical service or an industry.

(k)        Transaction of business and discussions regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position. The exemption provided by this paragraph includes transaction of business and discussion in executive session by the board of trustees of a public hospital regarding any employee or medical staff member or applicant for medical staff privileges and any such individual's credentialing, health, performance, salary, raises or disciplinary action. The exemption provided by this paragraph includes the right to enter into executive session concerning a line item in a budget which might affect the termination of an employee or employees. All other budget items shall be considered in open meetings and final budgetary adoption shall not be taken in executive session.

(l)         Discussions regarding material or data exempt from the Mississippi Public Records Act of 1983 pursuant to Section 25-11-121.

(m)       Transaction of business and discussion regarding prospective strategic business decisions of public hospitals, including without limitation, decisions to open a new service line, implement capital improvements, or file applications for certificates of need or determinations of nonreviewability with the State Department of Health.

(n)        Transaction of business of the boards of trustees of public hospitals that would require discussion of any identifiable patient information, including without limitation, patient complaints, patients' accounts, patients receiving charity care, or treatment that could be identified to a patient.

(5)        The total vote on the question of entering into an executive session shall be recorded and spread upon the minutes of the public body.

(6)        Any vote whereby an executive session is declared shall be applicable only to that particular meeting on that particular day.

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**§ 25-41-9. Rules and Regulations for Meetings**

**Any public body may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings.**

**§ 25-41-11. Minutes of Meetings**

(1)        **Minutes shall be kept of all meetings of a public body, whether in open or executive session, showing the members present and absent; the date, time and place of the meeting; an accurate recording of any final actions taken at such meeting; and a record, by individual member, of any votes taken; and any other information that the public body requests be included or reflected in the minutes.** The minutes shall be recorded within a reasonable time not to exceed thirty (30) days after recess or adjournment and shall be open to public inspection during regular business hours.

(2)        Minutes of a meeting conducted by teleconference or video means shall comply with the requirements of Section 25-41-5.

(3)        Minutes of legislative committee meetings shall consist of a written record of attendance and final actions taken at such meetings.

**§ 25-41-13. Notice**

(1)        Any public body which holds its meetings at such times and places and by such procedures as are specifically prescribed by statute shall continue to do so and no additional notice of such meetings shall be required except that:

(a)        **A notice of the place, date, hour and subject matter of any recess meeting, adjourned meeting, interim meeting or any called special meeting shall be posted within one (1) hour after such meeting is called in a prominent place available to examination and inspection by the general public in the building in which the public body normally meets. A copy of the notice shall be made a part of the minutes or other permanent official records of the public body; and**

(b)        **Except as otherwise provided by law, a notice of a called special meeting shall be posted to the public body's website, if the public body has a website and has the capability to update the website, not less than one (1) hour before the meeting.** A copy of this notice shall be transmitted via email or facsimile not less than one (1) hour before the meeting to any citizen and any publication, broadcast and digital media with a general circulation or coverage within the public body's jurisdiction, that has submitted in writing its interest to receive these notices. Any public body may, at its discretion, purge any list of publications, broadcasts or digital media that have requested to receive the notices once every twenty-four (24) months. After the purge, any publication, broadcast or digital media may resubmit in writing its interest to receive the notices. Nothing in this paragraph (b) shall add additional notice requirements for meetings of public bodies held in cases of emergencies. The provision of this paragraph (b) requiring notice to be posted on the public body's website shall not apply to municipalities with a population as determined by the latest federal decennial census of less than twenty-five thousand (25,000) inhabitants, and any county with less than fifty thousand (50,000) according to the latest federal decennial census.

(2)        Any public body, other than a legislative committee, which does not have statutory provisions prescribing the times and places and the procedures by which its meetings are to be held shall, at its first regular or special meeting after the effective date of this chapter spread upon its minutes the times and places and the procedures by which all of its meetings are to be held.

(3)        **Notice of any regular meeting held by a state agency, other than a legislative committee, shall be submitted to the Department of Finance and Administration at least twenty-four (24) hours before the meeting in order to be posted on the department's searchable website created by the Mississippi Accountability and Transparency Act, Section  27-104-152 et seq.** For purposes of this subsection, the term "state agency" means an agency, department, institution, board, commission, council, office, bureau, division, committee or subcommittee of the state. However, the term "state agency" does not include institutions of higher learning, community and junior colleges, counties or municipalities.

(4)        During a regular or special session of the Mississippi Legislature, notice of meetings of all committees, other than conference committees, shall be given by announcement on the loudspeaker during sessions of the House of Representatives or Senate or by posting on a bulletin board provided for that purpose by each body.

(5)        When not in session, the meeting times and places of all committees shall be kept by the Clerk of the House of Representatives as to House committees and by the Secretary of the Senate as to Senate committees, and shall be available at all times during regular working hours to the public and news media.

**§ 25-41-15. Enforcement of Chapter; Civil Penalty**

The Mississippi Ethics Commission shall have the authority to enforce the provisions of this chapter upon a complaint filed by any person. Upon receiving a complaint, the commission shall forward a copy of the complaint to the head of the public body involved. The public body shall have fourteen (14) days from receipt of the complaint to file a response with the commission. After receiving the response to the complaint or, if no response is received after fourteen (14) days, the commission, in its discretion, may dismiss the complaint or proceed by setting a hearing in accordance with rules and regulations promulgated by the Ethics Commission.

After a hearing, the Ethics Commission may order the public body to take whatever reasonable measures necessary, if any, to comply with this chapter. **If the Ethics Commission finds that a member or members of a public body has willfully and knowingly violated the provisions of this chapter, the Ethics Commission may impose a civil penalty upon the individual members of the public body found to be in violation of the provision of this chapter in a sum not to exceed Five Hundred Dollars ($500.00) for a first offense and One Thousand Dollars ($1,000.00) for a second or subsequent offense, plus all reasonable expenses incurred by the person or persons in bringing the complaint to enforce this chapter.**

Nothing in this chapter shall be construed to prohibit the Ethics Commission from mediating or otherwise resolving disputes arising under this chapter or from entering orders agreed to by the parties. In carrying out its responsibilities under this section, the Ethics Commission shall have all the powers and authority granted to it in Title 25, Chapter 4, Mississippi Code of 1972.

Any party may petition the chancery court of the county in which the public body is located to enforce or appeal any order of the Ethics Commission issued pursuant to this chapter. In any such appeal the chancery court shall conduct a de novo review.

**§ 25-41-17. Chance Meetings, Social Gatherings Excluded**

The provisions of this chapter shall not apply to chance meetings or social gatherings of members of a public body.

**ADDITIONAL RESOURCES:**

<http://www.ago.state.ms.us/wp-content/uploads/2015/10/A-Guide-to-Open-Meetings.pdf>

http://www.ethics.ms.gov/theopenmeetingsact