



WORKFORCE DEVELOPMENT BOARD

GUIDANCE

Sunshine Requirements:

Iowa Open Meetings Act

Workforce Innovation and Opportunity Act

Introduction:

- Established by Iowa Code section 84A, the State and Local Workforce Development Boards qualify as a “governmental body” under the Iowa Open Meetings Act, Iowa Code chapter 21, and under the Iowa Open Records Act, Iowa Code chapter 22.
- As State and Local Workforce Development Boards under the federal Workforce Innovation and Opportunity Act (WIOA), the WIOA sunshine provisions also apply to them.
- This Guidance outlines a board’s obligations under state and federal law, and includes recommended best practices.

1. WIOA Electronic Posting Requirements.

1.1. Membership Roster Posting.

WIOA requires that each board have an up-to-date membership roster available and accessible online. Each board must post the following information about each of their members online:

- 1) Full name; and
- 2) Affiliation.

2. Open Meeting Requirements.

- The legislature enacted the Iowa Open Meetings Act “. . . to assure, through a requirement of open meetings of governmental bodies that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people.”
- WIOA requires State and Local Workforce Development Boards to make available to the public, on a regular basis, and through open meetings, information regarding activities.
- To fulfill this purpose, the legislature requires that each board must comply with the law’s location, timing, notice, and records requirements when performing its duties and fulfilling its responsibilities under state and federal law.

2.1. What is a meeting?

The Iowa Open Meetings Act broadly defines the term “meeting” to be a “gathering” that:

- 1) Is in-person or electronic;

- 2) Is formal or informal;
- 3) Of a majority of the members of the board; and
- 4) Where there is deliberation or action on any matter within the scope of the board's duties.

The legislature has mandated that any ambiguity in the Iowa Open Meetings Act "should be resolved in favor of openness." This means that a gathering of a majority of board members involving any deliberation or action on any matter within the scope of the board's duties will likely qualify as a meeting that's subject to the Iowa Open Meetings Act.

2.2. What is not a meeting?

The Iowa Open Meetings Act also tells us what does not constitute a meeting: a "gathering" of board members for "purely ministerial or social purposes" where there is either "no discussion of policy" or "no intent to avoid the purposes" of the Iowa Open Meetings Act.

2.2.1. Social Gathering.

A social gathering is the easiest to define. If board members gather for the birthday party of another board member and no discussion of policy occurs, no meeting has occurred under the Iowa Open Meetings Act. If the board decides to go out for dinner after a meeting and no discussion of policy occurs, no meeting has occurred under the Iowa Open Meetings Act. Therefore, no notice is required and no minutes must be taken.

2.2.2. Ministerial Gathering.

The term "ministerial" means "of or relating to an act that involves obedience to instructions or laws instead of discretion, judgment, or skill." These are acts such as recording data or processing requests. While a board's functions are outlined in the law, most of a board's actions require discretion, judgment, or skill and/or require discussion of policy. The boards have few if any ministerial duties.

2.3. Meeting Location.

Under the Iowa Open Meetings Act, a board meeting must occur at a place that is reasonably accessible to the public. Most public buildings will meet this requirement. If holding a board meeting at a private building, you must make sure that the owner or lessee will allow the public to enter the premises for the meeting.

2.4. Accessibility for Individuals with Disabilities.

The Iowa Open Meetings Act requires that the board provide special access to the meeting to persons with disabilities. This means the meeting should be held at a building that is accessible for individuals with disabilities. Buildings that were built after 1992 or have undergone renovations

since that time are typically ADA compliant and therefore accessible for individuals with disabilities. The Iowa Open Meetings Act requirement that a board provide special access for individuals with disabilities means that a board must also make reasonable accommodations to provide access to individuals with disabilities, such as assistive technology and auxiliary aides.

2.5. Time of Meeting.

A board meeting must occur at a time reasonably convenient to the public. For example, a 3:00 a.m. start time is almost assuredly inconvenient to the public while a 7:00 p.m. start time is almost assuredly acceptable under this legal requirement.

2.6. Content of Meeting Notice.

The board must provide notice of every meeting it holds. Every board meeting notice must contain the following information:

- 1) Date of the meeting.
- 2) Time of the meeting.
- 3) Place of the meeting, including:
 - a) Street address;
 - b) Building name (if applicable); and
 - c) Room name or number within building.
- 4) If the meeting is an electronic meeting, the place of the meeting is the place from which either (1) the communication originates; or, (2) where public access is provided to the meeting. If the meeting is an electronic meeting, there must be a public access point. And that public access point must be identified on the notice of the electronic meeting.
- 5) Tentative agenda of the meeting. You should consider the following when writing the notice's tentative agenda:
 - a) The board must identify in the tentative agenda with specificity each and every discussion and action that it anticipates.
 - b) Ask yourself what the words used to describe agenda items would mean to a typical member of the public who reads them. The agenda must contain enough information to give full opportunity for public knowledge and public participation in the board discussion or action items planned for the meeting. Whether the agenda portion of a meeting notice meets the mandatory minimum requirements of the Iowa Opening Meetings Act is judged in the context of surrounding events.

- c) Avoid use of insider shorthand as best you can while keeping in mind that technical terms are inherent in workforce services delivery and are often necessary to accurately communicate a discussion or action item.
- d) Use an individual's full name and job title. For example: "Jane Doe, Iowa Workforce Development (IWD) Operations Manager," or "John Doe, Iowa Vocational Rehabilitation Services (IVRS) Supervisor."
- e) When referencing a law or program, use the full name and acronym. For example: "Workforce Innovation and Opportunity Act (WIOA)"; "PROMISE JOBS (PJ), the State of Iowa's Temporary Assistance for Needy Families (TANF) employment and training program"; "Iowa Vocational Rehabilitation Services (IVRS)"; "Iowa Department for the Blind (IDB)"; "Des Moines Area Community College (DMACC)"; "Employers' Council of Iowa (ECI)"; etc.
- f) The board must delay action if it is not on the agenda. If an action item that's not on the agenda can be deferred to a later meeting, this must be done. The lone exception to this rule applies if there is an emergency item that requires the board's attention and/or action. The rules regarding emergency items under the Iowa Open Meetings Act are discussed in detail in Section 2.9 of this Guidance.

2.7. Timing of Notice Posting.

The notice must be posted at least twenty-four (24) hours before the scheduled start time of the meeting.

2.8. Location of Notice Posting.

The notice must be posted on a bulletin board or other prominent place located at the Region's Iowa *WORKS* office. The bulletin board or other prominent place where notice is posted must be in an area of the building that is:

- 1) Regularly used by the public,
- 2) Easily accessible to the public; and
- 3) Easily visible by the public.

Think of the notice as an advertisement for the meeting — the more prominent the placement of the notice, the better. The goal of the meeting notice should be to make as many members of the public as possible aware of the board meeting, the matters that will be discussed at the meeting, and the votes that will be taken at the meeting.

2.9. Media Requests for Notice.

Under the Iowa Open Meetings Act, news media may file a request for notice of meetings with the board. If a media entity files a request for notice, the board must then send a copy of the meeting notice to the media entity. You should send the requested notice to the media entity at least 24 prior to the meeting's scheduled start time.

2.10. Emergency Discussion or Action.

The requirement that at least 24 hours of notice be given is nearly absolute. An item qualifies as an emergency item only if 24 hours of notice is impossible or impractical due to good cause. Few circumstances generate the impossibility or impracticality necessary to qualify as an emergency that creates good cause for failing to comply with notice requirements. They include:

- 1) The board will lose money unless immediate action is taken;
- 2) The board will be unable to provide a required service unless immediate action is taken; and/or,
- 3) The board must act immediately to prevent or mitigate the effects of a natural disaster.

The board should defer a discussion or action item to a later meeting unless the above criteria are met.

2.11. Closed Session.

The Iowa Open Meetings Act imposes a required procedure that a board must follow to go into closed sessions and only allows a board to go into closed session for certain reasons.

2.11.1. Procedure to Go into Closed Session.

Before a board may go into closed session under the Iowa Open Meetings Act, the board must hold a public roll-call vote on whether to go into closed session. Each individual member's vote must be recorded in the meeting minutes. Under the Iowa Open Meetings Act, a board may only go into closed session if it complies with one of the following alternative scenarios:

- 1) If 100% of the board's voting members are present at a meeting, at least two-thirds of the members must vote in favor of going into closed session; or
- 2) If less than 100% of the board's voting members are present at a meeting, all of the members present at the meeting must vote in favor of going into closed session.

If a member votes against going into closed session, the member's rationale for voting against going into closed session must be recorded in the meeting minutes.

2.11.2. Allowable Reasons for Closed Session.

A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

- 1) To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
- 2) To discuss application for letters patent.
- 3) To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
- 4) To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.
- 5) To discuss whether to conduct a hearing or to conduct hearings to suspend or expel a student, unless an open session is requested by the student or a parent or guardian of the student if the student is a minor.
- 6) To discuss the decision to be rendered in a contested case conducted according to the provisions of chapter 17A.
- 7) To avoid disclosure of specific law enforcement matters, such as current or proposed investigations or inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.
- 8) To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution, or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
- 9) To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.
- 10) To discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property. The minutes and the audio recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.
- 11) To discuss information contained in records in the custody of a governmental body that are confidential records, including information and records concerning physical infrastructure, cyber security, critical infrastructure, security procedures, or emergency preparedness

developed, maintained, or held by a government body for the protection of life or property, if disclosure could reasonably be expected to jeopardize such life or property.

- 12) To discuss patient care quality and process improvement initiatives in a meeting of a public hospital or to discuss marketing and pricing strategies or similar proprietary information in a meeting of a public hospital, where public disclosure of such information would harm such a hospital's competitive position when no public purpose would be served by public disclosure. The minutes and the audio recording of a closed session under this paragraph shall be available for public inspection when the public disclosure would no longer harm the hospital's competitive position. For purposes of this paragraph, "public hospital" means a hospital licensed pursuant to chapter 135B and governed pursuant to chapter 145A, 226, 347, 347A, or 392. This paragraph does not apply to the information required to be disclosed pursuant to section 347.13, subsection 11, or to any discussions relating to terms or conditions of employment, including but not limited to compensation of an officer or employee or group of officers or employees.

A governmental body is forbidden from discussing any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.

2.11.3. Board Member Attendance of Closed Session.

A board is prohibited from excluding a board member from attending a closed session, unless the member's attendance at the closed session creates a conflict of interest for the member due to the specific reason announced as justification for holding the closed session.

2.11.4. Minutes and Audio Recording of Closed Session.

The board must keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also audio record all of the closed session. The minutes and audio recording of a closed session must be sealed and are not public records open to public inspection, except upon order of a district court or when such information is relevant to an investigation by the Office of Ombudsman.

2.11.5. Final Board Action After Closed Session.

Final action by the board on any matter must be taken in an open session unless some other provision of the Iowa Code expressly permits such actions to be taken in closed session.

2.12. Rules of Conduct at Meetings.

2.12.1. Use of Recording Devices.

The public may use cameras or recording devices at any open session of a board meeting.

2.12.2. Reasonable Rules for the Conduct of Meetings.

A board may make and enforce reasonable rules for the conduct of its meetings to assure those meetings are orderly and free from interference or interruption by spectators.

2.13. Electronic Meetings.

A board may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if the board complies with all of the following:

- 1) The board provides public access to the conversation of the meeting to the extent reasonably possible.
- 2) The board provides public access to the conversation to the extent reasonably possible. For example, if the meeting is held by conference call, it is reasonably possible for the board to provide access to a telephone where members of the public may participate in the conversation. Or, if the meeting is via a real-time web-streaming service such as Google Hangouts, it is reasonably possible for the board to provide access to a computer where members of the public may participate in the conversation.
- 3) The board complies with the Iowa Open Meetings Act requirements for notice of the meeting, location of the meeting, and accessibility for individuals with disabilities.
- 4) Minutes are kept of the meeting. The minutes shall include a statement explaining why a meeting in person was impossible or impractical.

2.14. Meeting Minutes.

The board must keep minutes of all its meetings that show all of the following:

- 1) The date of the meeting;
- 2) The time of the meeting;
- 3) The place of the meeting;
- 4) The members present;
- 5) The action taken at the meeting;
- 6) The results of each vote taken by the board; and
- 7) Information sufficient to indicate the vote of each member present.

The minutes of board meetings are public records and must be open to public inspection.

WIOA also requires that the minutes of board meetings must be available to the public upon request.

2.15. Meeting Documents.

Documents that are distributed and discussed at the meeting qualify as public records as well and should be made available for public inspection.