



A Guide to Mississippi Open Meetings & Public Records Laws

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Like other states, Mississippi has a Public Records Act and an Open Meetings Act, otherwise known as "sunshine laws." These laws provide that all government meetings and records except those specifically exempt must be open to the public. The best protection for public officials is to have a good working knowledge of the laws, and the exceptions that apply.

For everyone practicing evil hates the light and does not come to the light, lest his deeds should be exposed. But he who does the truth comes to the light, that his deeds may be clearly seen. . . John 3:20-21

OPEN MEETINGS

- "Meeting"** Gathering 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; "official acts" includes discussion.
- "Public Body"** Defined broadly to include executive or administrative boards, commissions, authorities, councils, departments, agencies, or bureaus of the State of Mississippi, and committees thereof.
- Minutes** A public body speaks only through its minutes. §25-41-11 requires minutes be kept of all meetings of a public body, whether in open or executive session, showing (1) which members present or absent, (2) date, time and place of meeting, (3) accurate recording of any final action taken, (4) record, by individual member, of how they voted on any final action, and (5) any other information that the public body requests be reflected in the minutes.
- Conduct of Persons**
- Attending Meetings** §25-41-9 allows public body to make and enforce reasonable rules for the conduct of persons attending its meetings. This includes rules on tape recordings, cameras, etc. Outright prohibitions of recordings and cameras typically not reasonable.
- Notice** §25-41-13 says if meeting time, place and manner is set by statute, no other notice required. If not, the public body must adopt and reflect in minutes the time, place and procedures for its meetings, and in such case,

no other notice required. Notice of place, time and subject matter of any recessed, adjourned, interim or specially called meeting must be posted within one (1) hour after such meeting is called in prominent place available to examination and inspection by the general public in the building where the public body normally meets and must be reflected in minutes.

Executive Session

Public Body *may* (but not required to) go into executive session to discuss only the following:

- personnel matters
- litigation - prospective or actual
- security personnel, plans or devices
- investigations of alleged misconduct or violations of law
- emergency posing immediate or irrevocable harm to persons or property
- prospective purchase, sale or lease of lands
- preparation of admission tests for certain professions
- location, relocation or expansion of business or industry
- line item in budget which may affect termination of employee(s)
- certain school board discussions with individual students, parents or teacher
- Legislature may go into executive session anytime

Procedure for going into executive session:

1. Meeting begins as open; member may move to close meeting to determine *whether* board needs to go into executive session; vote in open meeting, majority rules
2. Closed meeting; vote taken on whether to declare executive session, requires majority of 3/5 present
3. Board comes back into open session and states statutory reason for executive session
4. Go into executive session, where action may be taken on stated subject matter only; minutes must be kept just as with open session

PUBLIC RECORDS

"Public Record"

All books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business transaction, work, duty or function of any public body or required to be maintained by any public body.

"Public Body"

Any department, bureau, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or a

political subdivision thereof, and any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. ("Entity" does not include employees or appointed or elected public officials.)

"Incident Report" means a narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.

"Law Enforcement Agency" means a public body that performs as one of its principal functions activities pertaining to the enforcement of criminal laws, the apprehension and investigation of criminal offenders, or the investigation of criminal activities.

General rules

- §25-61-5 gives public right to inspect, copy or obtain a copy of any public record of a public body.
- An incident report is a public record.
- Public body may adopt reasonable written procedures as to actual cost and time frame (up to 14 working days) for providing such records or copies, place of inspection, and method of access (form of requests, copies or inspection).
- Any fees established may be collected prior to providing the records.
- Public body may require requests to be in writing.
- Denials must be in writing and specify reason. Denial letters must be retained for 3 years.
- Public body not required to "create" a record that doesn't exist, compile data found in different records, or analyze or make conclusions regarding records.
- Some records which may be exempt include: personnel files, medical records, attorney work product/communications, certain law enforcement records, trade secrets, etc.
- §25-61-5 (2) states that if any public record contains material which is not exempted under this chapter, the public agency shall redact the exempted and make the nonexempted material available for examination. It also allows the public agency to charge a reasonable fee for the redaction, not to exceed actual costs.
- §25-61-12 allows a law enforcement agency the discretion to make public all or any part of an investigative report.