

# ARIZONA OPEN MEETING LAW

School Councils Conducting  
Public School Business in Public

Presented by TUSD Legal Department



# Purpose of the Open Meeting Law (OML)

- In 1962, Arizona enacted the Opening Meeting Law to maximize public access in governmental processes.
- The express intent of the law is to provide openness in government by:
  - Conducting all business openly
  - Providing notices and agendas
  - Avoiding decision-making in secret.



# Important Requirement

- Each member of the school council **MUST** review OML materials at least one day before taking office.
- The Chairperson is responsible for informing new members of this requirement.



# What constitutes a meeting?

- A meeting is a gathering of a quorum of the School Council where the members discuss, propose or take legal action. This includes any deliberations that take place.
- The OML requires all meetings to be properly noticed and to have an agenda that informs the public what may be discussed and decided.



# Meeting Con't

- A gathering may be considered a meeting even when it occurs through email, telephone or texting, or when it occurs unintentionally at a social event.
- When matters that are on the agenda or may be on the agenda are discussed at this kind of meeting, a violation of the OML has occurred.



# Notice

- School Councils **MUST** post on their website the physical and electronic locations where all public notices of their meetings will be posted.
- At least 24 Hours before the meeting post the notice for the public and send to all members of the School Council
  - The notice must include how to obtain a copy of the Agenda

# The Agenda

- Agendas for all public meetings must include the following information:
  - Name of the School Council
  - Specific location of the meeting including address floor and room number
  - Date and Start Time



# Agenda Con't

- Agendas must be specific enough to reasonably inform the public of the matters to be discussed or decided.
- Avoid titles such as New Business, Current Events or Updates.
- Be Specific -- New Business relating to school curriculum, Finance Department update on budget



# Quorum

- A quorum is a majority (51%) of the authorized membership. The authorized membership is determined by the School Council By-laws.
- Example: Authorized membership is 11. The Quorum is 6.  
The School Council must have 6 members present to conduct its meeting.



# Quorum Con't

- Vacancies count when determining a quorum.
- Example:

Authorized membership is 15

Quorum is 8

There are two vacancies. The quorum is still 8 and the School Council must have 8 members present to conduct its meeting.



# Quorum Situations

- Situation #1 – Day of the Meeting
- Two hours before the meeting the Chairperson is advised that she will not have enough members present for a quorum. The Chairperson must cancel the meeting, notify the members and post the canceled meeting agenda on the front door of the meeting room for the public.



# Quorum Situations Con't

- Situation #2 Day of the meeting
- The chairperson is expecting a quorum for the meeting and at the start of the meeting a quorum is not present. It is acceptable to wait 15 minutes for all of the members to arrive. If after 15 minutes a quorum has not been established the meeting must be canceled.



# Quorum Situations Con't

- Situation #3 During the meeting
- A quorum has been established by the minimum number. One of the members receives an emergency phone call during the meeting and must leave. The Chairperson must adjourn the meeting immediately for lack of a quorum.



# Quorum Situations Con't

- Situation #4 During the Meeting
- A meeting has been established by the minimum number. One of the members receives a phone call and wants to leave the meeting to take the call. The chairperson should recess the meeting and take a short break. Once a quorum is reestablished the meeting can be resumed.

# Call to the Audience

- A call to the audience is not required by the Open Meeting Law, but TUSD Governing Board Policy CFC requires School Councils to have a Call to the Audience as provided in Board Policy.



# Call to the Audience Con't

- Board Policy states that the Call to the Audience shall be for 45 minutes unless otherwise indicated on the agenda, and may be extended beyond 45 minutes only by majority vote.
- All speakers must complete the Call to the Audience form including name, address, affiliation, and topic.



# Call to the Audience Con't

- Speakers must state their name, be as brief as the subject permits, and when possible, avoid repeating what a previous speaker may have stated.
- The time of public presentations is limited to three (3) minutes unless a shorter time is announced by the Chairperson at the beginning of the Call to the Audience.



# Call to the Audience Con't

- Members of the School Council shall not discuss or take legal action on matters raised during a Call to the Audience unless the matters are properly noticed on the agenda.



# Call to the Audience Con't

- At the conclusion of the Call to the Audience, members of the School Council may respond to criticism made by those who have addressed the Council, ask staff to review a matter, or ask that a matter be put on a future agenda.



# Executive Sessions

- Not applicable to School Councils because they are used for
  - Legal advice
  - Negotiations
  - Personnel issues regarding assignment, dismissal, salaries etc.
- Private but not SECRET
  - Agenda and Minutes required



# Public's Rights

- Members of the public have the right to:
  - Attend
  - Listen
  - Tape record or video tape
- Members of the public do not have the right to speak or disrupt a meeting.



# Minutes

- Meetings must be recorded either through minutes or by being tape recorded
- Minutes must be made available to the public within 3 working days. Either post the minutes online or indicate how the public can obtain copies of the minutes.



# Minutes - continued

- Minutes must include:
  - Date, time and place of meeting
  - Members present and absent
  - General description of matters considered
  - Accurate description of decisions made
  - Names of members who propose each motion
  - Names of individuals making presentations to the group and any action taken thereon by the group.



# Sanctions for Violations of the OML

- Arizona has one of the strictest open meeting laws in the country. It is enforced by the Attorney General and complaint driven.
- School Council Members who violate the Open Meeting Law and anyone who aids them are subject to a \$500 civil penalty for each violation.



# Sanctions Con't

- If the violation is based on the intent to deprive the public of information – the school council member may be removed from the position and must pay costs and fees.



# Avoiding Sanctions

- Circumvention of the Open Meeting Law is prohibited.
- Daisy chain discussions are prohibited.  
Member A to Member B to Member C.
- Spoke and wheel is not permitted.  
Member A to Member B, Member A to Member C, Member A to Member D.



# Avoiding Sanctions Con't

- During a meeting, discussing and deciding matters not listed on the agenda is prohibited as is wandering off the agenda topic during discussion of an agenda item.
- It is the responsibility of the chairperson to keep the School Council members on topic during the meeting.



# Actions taken in Violation of the Open Meeting Law

All actions taken in violation  
of the OML are null and void.

What to do if you realize that you've  
made a mistake ....

RATIFY



# Ratification

- Ratification is accomplished by placing the item back on the agenda with proper notification to the public. A new vote will be taken.
- Ratification must be timely ... within 30 days of discovery (or when the violation should have been discovered)



# Conflict of Interest

- Any member of the School Council who has or whose relative has a pecuniary (money) or proprietary (ownership) interest in a matter before the Council must declare a conflict of interest and refrain from discussing or voting on the matter.
- A conflict of interest may be direct or indirect and the amount of money at issue is not relevant.

# Declaring a Conflict of Interest

- If a member of the School Council determines that he or she has a conflict, the member must declare the conflict before the item begins.
- The member must refrain from participating in any manner including discussing, voting or in any way attempting to influence the other members.

# Arizona Open Meeting Law

- In summary, the Arizona Opening Meeting Law requires public bodies including School Councils to conduct meetings openly after notice to the public has been posted at least 24 hours before the meeting. This law promotes transparency and trust between the government and citizenry.



# Arizona Open Meeting Law

The End

