

CHAPTER 42: PUBLIC MEETINGS

Section

General

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GENERAL

§ 42.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

"ACTION TAKEN." A collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body.
(KRS 61.805(3))

"MEETING." All gatherings of every kind, including video teleconferences, regardless of where the meeting is held, and whether regular or special and informational or casual gatherings held in anticipation of or in conjunction with a regular or special meeting.
(KRS 61.805(1))

"MEMBER." A member of the governing body of a public agency. "Member" does not include employees or licensees of the agency.
(KRS 61.805(4))

"PUBLIC AGENCY." Every city government board, commission, and authority; every city council and council board, commission and committee; every school district board, special district board, and municipal corporation; every city government agency, including the policy-making board of an institution of education created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act; any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government; any entity when the majority of its governing body is appointed by a "public agency", as defined by this section; a member or employee of a "public agency", a state or local officer, or any combination thereof; any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council or agency, except for a committee of a hospital medical staff or a committee formed for the

purpose of evaluating the qualifications of public agency employees, established, created, or controlled by a "public agency" as defined in this section; an interagency body of two (2) or more public agencies where each "public agency" is defined in this section.
(KRS 61.805(2))

"VIDEO TELECONFERENCE." One (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment.
(KRS 61.805(5))

PUBLIC MEETING REQUIREMENTS

§ 42.05 MEETINGS OPEN TO THE PUBLIC.

(A) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times, except for the following:

(1) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency;

(2) Discussions of proposed or pending litigation against or on behalf of the public agency;

(3) Collective bargaining negotiations between public employers and their employees or their representatives;

(4) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret;

(5) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;

(6) Local cabinet meetings and executive cabinet meetings;

(7) Deliberations of quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;

(8) That portion of a meeting devoted to a discussion of a specific public record exempted from disclosure under KRS 61.878(1)(i). However, that portion of any public agency meeting shall not be closed to a member of the Kentucky General Assembly;

(9) Meetings which federal or state law specifically require to be conducted in privacy; and

(10) Meetings which the Constitution provides shall be held in secret.

(B) Any series of less than quorum meetings, where the members attending one or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (A) of this section, shall be subject to the requirements of subsection (A) of this section. Nothing in this subsection shall be construed to prohibit discussion between individual members where the purpose of the discussions is to educate the members on specific issues.

(KRS 61.810)

§ 42.06 REQUIREMENTS FOR CLOSED SESSIONS.

(A) The following requirements shall be met as a condition for conducting closed sessions by those public agencies authorized by § 42.05(A) (1) and (4) except as (4) relates to students:

(1) Notice shall be given in regular open meetings of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of § 42.05 authorizing the closed session;

(2) Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;

(3) No final action may be taken in closed session; and

(4) No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.

(B) Public agencies and activities identified in § 42.05(A) paragraphs (2), (3), (4), but only so far as (4) relates to students, (5), (6), (7), (8), (9) and (10) are excluded from the requirements of subsection (A) of this section.

(KRS 61.815)

§ 42.07 PUBLIC MEETING SCHEDULES.

(A) All meetings of a public agency shall be held at specified times and places which are convenient to the public. In considering locations for public meetings, the agency shall evaluate space requirements, seating capacity, and acoustics.

(B) All public agencies shall provide for a schedule of regular meetings by ordinance, order, resolution, by laws or by whatever other means may be required for the conduct of business of the public agency. The schedule of regular meetings shall be made available to the public. (KRS 61.820)

§ 42.08 SPECIAL MEETINGS.

(A) Except as provided by subsection (F) of this section, special meetings shall be held in accordance with the provisions of divisions (B), (C) and (D) of this section.

(B) The presiding officer or a majority of the members of the public agency may call a special meeting;

(C) The public agency shall provide written notice of the special meeting containing the date, time, place of the special meeting and the agenda. Discussions and action at the meeting shall be limited to items listed on the agenda in the notice.

(D) (1) As soon as possible, written notice shall be delivered personally, transmitted by facsimile, or mailed to every member of the public agency as well as each media organization which has filed a written request, including a mailing address, to receive notice of special meetings. The notice shall be received at least twenty-four (24) hours before the special meeting. The public agency may periodically, but no more often than once in a calendar year, inform media organizations that they will have to submit a new written request or no longer receive written notice of special meetings until a new written request is filed.

(2) A public agency may satisfy the requirements of division (1) of this section by transmitting the written notice by electronic mail to public agency members and media organizations that have filed a written request with the public agency indicating their preference to receive electronic mail notification in lieu of notice by personal delivery, facsimile machine or mail. The written request shall include the electronic mail address or addresses of the agency member or media organization.

(E) As soon as possible, written notice shall also be posted in a conspicuous place in the building where the special meeting will take place and in a conspicuous place in the building which houses the headquarters of the agency. The notice shall be posted at least twenty-four (24) hours before the special meeting.

(F) In the case of an emergency which prevents compliance with the notice requirements in this section, this subsection shall govern a public agency's conduct of a special meeting. The special meeting shall be called pursuant to subsection (A)(1) of this section. The

public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request pursuant to this section, and the public of the emergency meeting. At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the record the emergency circumstances preventing compliance with the notice requirements of this section. These comments shall appear in the minutes. Discussion and action at the emergency meeting shall be limited to the emergency for which the meeting is called.
(KRS 61.823)

§ 42.09 VIDEO TELECONFERENCES.

(A) A public agency may conduct any meeting, other than a closed session, through video teleconference.

(B) Notice of a video teleconference shall comply with the requirements of KRS 61.820 or 61.823 as appropriate, in addition the notice of a video teleconference shall:

(1) Clearly state that the meeting will be a video teleconference; and

(2) Precisely identify the video teleconference locations as well as which, if any, location is primary.

(C) The same procedure with regard to participation, distribution of materials, and other matters shall apply in all video teleconference locations.

(D) Any interruption in the video or audio broadcast of a video teleconference at any location shall result in the suspension of the video teleconference until the broadcast is restored.
(KRS 61.826)

§ 42.10 ENFORCEMENT.

The provisions of this Chapter shall be enforced pursuant to KRS 61.846 and 61.848 for enforcing KRS 61.805 to 61.850.