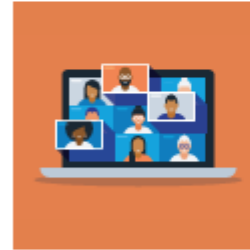




# **SD Open Meetings Laws Review**

as required by SB74  
(2025)

# SD Open Meetings Laws Brochure



## Conducting the Public's Business in Public

A guide to South Dakota's  
Open Meetings Laws  
*(Revised 2023)*

Prepared by:  
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# SD Open Meetings Laws

- What are SD Open Meetings Laws?
  - ▶ Intended to encourage public participation in government
  - ▶ SDCL 1-25 requires:
    - ▶ *Official meetings of public bodies must be public; and*
    - ▶ *Advance notice is to be given of such meetings.*
  - ▶ Official Meetings definition
    - ▶ *Where quorum of the public body is present; and*
    - ▶ *At which official business or public policy of the body is discussed or decided.*
  - ▶ Teleconference –
    - ▶ *exchange of information by any audio, video, electronic medium, including the internet*

# SD Open Meetings Laws

- Official Meetings

- ▶ Not a public meeting if:

- ▶ *Members attending a press conference called by a representative of the public body.*
    - ▶ *Events hosted by a non-governmental entity to which a quorum of the public body is invited and public policy may be discussed, BUT the body does not control the agenda*
    - ▶ *Encourages the public body to post a Notice of Quorum, in lieu of an agenda.*

# SD Open Meetings Laws

- Meeting notifications (SDCL 1-25-1.1)
  - ▶ Post a notice and copy of the proposed agenda
    - ▶ *To include: date, time, location; and*
    - ▶ *Must be: visible, readable, accessible to the public for 24 continuous hours immediately preceding the meeting.*
    - ▶ *Website: must be posted on the website upon dissemination of the notice*
      - ▶ <https://cityofbrookings.legistar.com/calendar.aspx>
  - ▶ Special / Rescheduled Meetings
    - ▶ *Must comply with the regular meeting notice requirements as much as circumstances permit*
  - ▶ Agenda Support Materials
    - ▶ *Posted on the public body's website*
    - ▶ *Make materials available to the public at least 24 hours prior to the hearing*
    - ▶ *Or when made available to the public body members -- whichever is later.*

# SD Open Meetings Laws

- News Media

- ▶ Defined as (SDCL 13-1-57):

- ▶ *Those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered.*
    - ▶ *Attorney General Opinion: all news media – broadcast and print – that regularly carry news to the community.*

- ▶ News Media Notification

- ▶ *Delivered in person, by mail, by email, or by telephone*
    - ▶ *Provide to local news media who have asked to be notified*

# SD Open Meetings Laws

- Adding agenda items less than 24 hours before a meeting
  - ▶ Proposed agenda is a fluid document
  - ▶ Final Agenda
    - ▶ *Public body adopts the final agenda upon convening the meeting*
      - ▶ At the time the agenda is adopted, the governing body may add or delete agenda items, and may also change the order of business.
      - ▶ New items cannot be added after the public body adopts the agenda.

# SD Open Meetings Laws

- Public Comment Period (SDCL 1-25-1)
  - ▶ Required to provide at every official meeting
  - ▶ Public Body has discretion to limit public comment as to:
    - ▶ *Time allowed for each topic commented on.*
    - ▶ *Total time allowed for public comment.*
  - ▶ Not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

# SD Open Meetings Laws

- Recording Meetings (SDCL 1-25-11)
  - ▶ Public bodies are required to allow recording (audio or visual)
  - ▶ Must be: reasonable, obvious, and not disruptive
  - ▶ Does not apply to those portions of a meeting which are confidential or closed to the public

# SD Open Meetings Laws

- Closed Meetings / Executive Session (SDCL 1-25-2)
  - ▶ Only allowed to the following purposes:
    - ▶ 1) *discuss personnel issues pertaining to officers or employees*
    - ▶ 2) *consideration of the performance or discipline of a student, or the student's participation in interscholastic activities*
    - ▶ 3) *consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or contractual matters*
    - ▶ 4) *preparing for employee contract negotiations*
    - ▶ 5) *to discuss marketing or pricing strategies of a publicly-owned competitive business*
    - ▶ 6) *to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information*

# SD Open Meetings Laws

- Closed Meetings / Executive Session
  - ▶ Additional exception:
    - ▶ *Meetings may also be closed by cities and counties for certain economic development matters (SDCL9-34-19)*
- **SDCL 9-34-19. Exemption of documentary material and data involving trade secrets, etc. from disclosure-- Consideration in executive session.**
  - Any documentary material or data compiled or received by a municipal corporation, county, or an economic development corporation receiving municipal or county funds, for the purpose of furnishing assistance to a business, to the extent that such material or data consists of trade secrets or commercial or financial information regarding the operation of such business, is not a public record. Any discussion or consideration of such trade secrets or commercial or financial information by a municipal corporation or county may be done in executive session closed to the public.
- **Source:** SL 1998, ch 48, § 1; SL 2004, ch 77, § 1.

# **SD Open Meetings Laws**

Questions?

# SD Open Meetings Laws

- What happens if media or public are improperly excluded?
  - ▶ This will subject the public body or the members involved to:
    - ▶ A) *reprimand by the Open Meetings Commission*
    - ▶ B) *prosecution as a Class 2 Misdemeanor*
      - ▶ Punishable by a maximum sentence of 30 days in jail, a \$500 fine, or both
  - ▶ Same penalties apply if the meeting agenda is not properly posted, or other open meetings violations occur.
  - ▶ Any action taken during any meeting which has not been properly noticed could, if challenged, be declared null and void.

# SD Open Meetings Laws

- How to file an Open Meetings Laws Complaint:
  - ▶ Complaints to be filed with law enforcement officials in the county where the offense occurred.
    - ▶ *Will require a signed and notarized complaint made under oath, and any necessary investigation will be conducted.*
    - ▶ *The State's Attorney may*
      - ▶ A) prosecute the case as a misdemeanor
      - ▶ B) find that the matter has no merits and file a report with the Attorney General for statistical purposes
      - ▶ C) forward the complaint to the Open Meetings Law Commission for a determination
  - ▶ The Open Meetings Commission consists of 5 State's Attorneys or Deputy State's Attorneys who are appointed by the Attorney General.