

THE OPEN MEETINGS ACT (OMA),
MCL 15.261 et seq: AN OVERVIEW

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As an overview, this document does not discuss every section and subsection of the OMA. It is intended to be used as a quick reference. The OMA should be read and reviewed in full. Any comments herein are given at the division level and are not the opinion of the Attorney General.

Basic Intent: The OMA promotes governmental accountability and fosters openness in government to enhance responsible decision making by requiring certain meetings of certain public bodies to be open to the public. OMA Preamble.

Key Definitions: “‘Public body’ means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function . . .” “‘Meeting’ means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy . . .” “‘Decision’ means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.” MCL 15.262. In short, the OMA requires that *all decisions*¹ and *deliberations*² of a public

¹ In addition to the definition of *decision* in MCL 15.262, see <https://en.oxforddictionaries.com/> - *decision*: The action or process of deciding something or of resolving a question; a formal judgment.

² Where the Legislature has not defined the terms used in a statute, courts can consult dictionary definitions to determine their “ordinary and generally accepted meanings.” *People v Morey*, 461 Mich 325, 330 (1999); MCL 8.3a. See <https://en.oxforddictionaries.com/> - *deliberation*: Long and careful consideration; slow and careful movement or thought. Note that MCL 15.267 and MCL 15.268 permit deliberations in a closed session but any decisions must be made at an open meeting.

body shall be made at a meeting open to the public.³ MCL 15.263(2) and (3).

Public Notice Requirements: A meeting of a public body cannot be held unless public notice is given consistent with the OMA. MCL 15.264 and MCL 15.265.

Closed Sessions: A public body may meet in closed session but only for one or more of the permitted purposes specified in the OMA. A closed session must be conducted during the course of an open meeting and closed to the public only for the period of the closed session. MCL 15.267 and MCL 15.268.

Minutes: At a minimum, the minutes must show the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. MCL 15.269. Closed session minutes “are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13.” MCL 15.267(2).

Enforcement and Penalties for Violation of the Act: “A decision made by a public body may be invalidated if the public body has not complied with the requirements of sections 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.” MCL 15.270(2). Injunctive relief also is available. MCL 15.271(2). “A public official who intentionally violates this act is guilty of a misdemeanor [punishable by fines and imprisonment;]” and also may be “personally liable in a civil action for actual and exemplary damages . . .” MCL 15.272 and 15.273.

Correcting Non-Conforming Decisions: “In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.” MCL 15.270(5).

³ Though not a term of art in the OMA, the word *discussion* is popularly used to describe communications that take place at public body meetings. See <https://en.oxforddictionaries.com/> - *discussion*: The action or process of talking about something, typically to exchange ideas; a conversation about a certain topic. While *discussion*, as the word is commonly understood, occurs at meetings, to avoid misconstruction, it is recommended that the word not be used in place of *deliberation* and *decision*.