

GOOD MORNING, SUNSHINE: THE TENNESSEE OPEN MEETINGS ACT

ACOG Meeting November 13, 2025

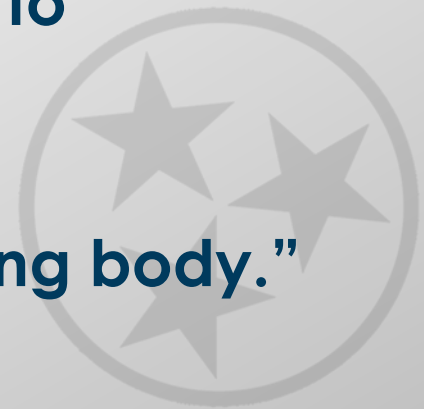
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TENNESSEE OPEN MEETINGS ACT

Tenn. Code Ann. § 8-44-101, *et. seq*

- The formation of public policy and decisions is public business and shall not be conducted in secret.
- Construed broadly in favor of the public.
- Provides the right to attend, and the right to comment.
- Applies to all “meetings” of any “governing body.”



TENNESSEE OPEN MEETINGS ACT

What is a “Governing Body”?

- ⊙ Members of a public body of 2 or more members with authority to make decisions for or recommendations to a public body on policy or administration.
- ⊙ “Public Body”
 - 1. Origin or authority traced to state, city or county legislative action; and
 - 2. Possess authority to make decisions or recommendations concerning policy or administration.
- ⊙ Includes certain non-profits.
- ⊙ Does not include advisory committees created by a single official



TENNESSEE OPEN MEETINGS ACT

What is a “Meeting”?

- ❁ Convening of a governing body of a public body to make a decision or to deliberate toward a decision.
- ❁ “Deliberation” about an issue a quorum would have to vote upon
 - Weigh arguments for or against a proposed course of action
- ❁ Doesn't include executive sessions or informational workshops/sessions
 - Does it go beyond the provision of information and extend into substantive discussion of positions and attempt to develop a consensus?



TENNESSEE OPEN MEETINGS ACT

TOMA Requirements

- 🌐 Meeting must be open to the public
- 🌐 Adequate Public Notice of the meeting
- 🌐 Meeting Minutes
 - Persons present
 - Motions, proposals and resolutions offered
 - Results of any votes
- 🌐 All votes by public vote, public ballot or public roll call
- 🌐 Agendas available 48 hours in advance
- 🌐 Opportunity for public comment



TENNESSEE OPEN MEETINGS ACT

“Adequate Public Notice”

- ⊙ **Under the totality of the circumstances, does notice give interested citizens a reasonable opportunity to exercise their right to attend?**
- ⊙ **Regular Meeting: Only Time & Place of Meeting**
- ⊙ **Special Meeting:**
 - Reasonably describe proposed actions to be taken or decisions to be made
 - Cannot discuss other matters during the meeting



TENNESSEE OPEN MEETINGS ACT

Public Comment Period

- Effective July 1, 2023
- Requires a governing body for each public meeting reserve time for public comment
- Reasonable restrictions are allowed
 - Length of time for total comments
 - Length of time that each speaker may comment
 - May require advance notice
 - Number of speakers
- Opposing viewpoints represented fairly

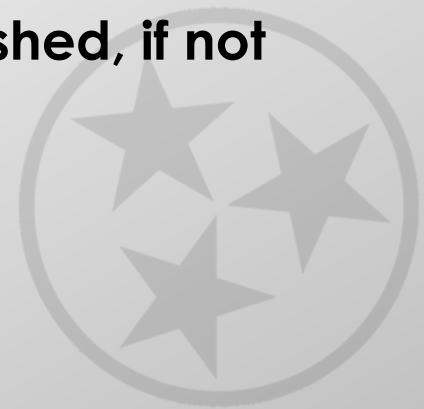


TENNESSEE OPEN MEETINGS ACT

Agendas

Tenn. Code Ann. § 8-44-110

- Local government bodies and state government bodies must make an agenda available to the public at no charge at least 48 hours prior to the meeting.
- Must make agenda available to the public on the website provided the governing body maintains a website.
- Must describe the matters to be deliberated or acted upon during the meeting.
- Items can be added after the agenda is published, if not done so to violate sunshine laws intentionally.
- Separate from notice of meeting.



TENNESSEE OPEN MEETINGS ACT

“Executive Sessions”

- **Meeting with Attorney**
- **Informational Sessions/Workshops**
- **Hospital Boards**
- **School Safety Planning**
- **Government Audit Committees**



TENNESSEE OPEN MEETINGS ACT

TOMA OOPS!

- ❁ **Any action taken in violation of TOMA is null and void, except commitments affecting public debt.**
 - Tenn. Code Ann. § 8-44-105
- ❁ **Court has broad jurisdiction to issue injunctions, impose penalties and otherwise enforce purpose of TOMA.**
 - Tenn. Code Ann. § 8-44-106
 - Court retains jurisdiction and governing body must report to the court semi-annually re TOMA compliance
- ❁ **Willful violation? Attorney's fees for you!**



QUESTIONS?

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