



Arkansas Conservation District Directors Training Manual

Open Meetings

The Arkansas Freedom of Information Act (“FOIA”), Ark. Code Ann. §§ 25-19-101 to 25-19-109, was enacted in 1967 and has been amended many times since. Conservation Districts are subject to the requirements of the act.

The Freedom of Information Act has two major sections that affect how Conservation Districts carry out their work:

- **Open records.** This part of FOIA addresses who may request written records, what records they may request, timeframes for your response, etc.
- **Open meetings.** This part of FOIA addresses how you conduct meetings, who receives notice, timeframes for notice, etc.

Open Meetings

Who can answer questions about open meeting requirements? If you have any questions, contact your Land Resource Specialist (LRS) or the Arkansas Natural Resources Commission.

Who may attend a meeting? Anyone may attend a meeting.

What meetings are open? Open meeting requirements apply to “all meetings, formal or informal, special or regular” of the governing bodies of a political subdivision “supported wholly or in part by public funds.”

- Applies to regularly scheduled and special meetings, that is any meeting not regularly scheduled
- Applies whether official action taken or not.

- Meetings include committee meetings, workgroup sessions, discussion of proposals
- Informal information gathering or fact finding sessions also are considered meetings
- Social gatherings are not considered meetings if discussion of business is “incidental and intermittent”
- Telephone polls cannot be used to circumvent open meeting requirements. There is no substitute for a meeting.
- Conference calls are meetings subject to open meeting requirements.
- Quorum rules do not apply. Two members talking about Conservation District business can be a meeting. It depends on what is discussed. For example, if two directors discuss a matter on which the board may take action in the foreseeable future that is a meeting under the Act.

Who is required to be notified of meetings? No one is entitled to advance notice unless requested. Open meeting requirements do not require that notice of a meeting be posted or that a board purchase newspaper advertising to inform the public of a meeting.

Who can request notice and how? Anyone can request notice.

- Anyone who requests notice of meetings must be furnished with advance notice of the time and place
- Organizations as well as individuals may request advance notice.
- Requests may be made verbally or in writing.

What notice is required for regular meetings? All meetings are convened as open meetings so advance notice is required for all meetings.

- While the Act does not specify what form notice must take, written notice (e.g., a USPS letter, fax, email) provides a more reliable record that advance notice was given as compared to a voice mail message.
- Actual advance notice is required. Providing the requester with a list of regularly scheduled meetings for the year with date, time and location is sufficient.
- Actual advance notice “must give notice within a period of time that is reasonably sufficient to allow [persons] who have requested notice to arrange to attend the meeting.” Six days should be sufficient.
- An agenda or listing of subjects to be considered does not have to be included in the notice.
- Commission policy is to send an agenda to requesting parties one week in advance.
- If the time or location of the meeting has changed since notice was given, a second notice containing the correct information is required.
- Meetings must not be set at a time that would effectively avoid the public meeting requirements of the Act.

What notice is required for special or emergency meetings? Actual notice is required for special or emergency meetings as well as regular meetings.

- Must notify news media that have requested notice actual notice
- Notification shall be made at least 2 hours before the meeting takes place.
- There must be a reasonable expectation that the notification will be received (e.g., you can’t email a notice at 2:00 a.m. for a 7:00 a.m. special meeting)
- Other notice requirements are the same as for regular meetings.

What can happen if proper notice is not given? Action taken at the meeting may be invalidated.

What rights do citizens have at an open meeting? Citizens who attend open meetings have some rights.

- They are entitled to learn of action taken as well as reasons for taking such action, including deliberations, discussions and information gathering
- Citizens must be given reasonable access to meetings.
- Citizens do not have the right to participate in open meetings. Rather, they have the right to be informed of government actions.
- Secret votes are not allowed. Citizens have a right to find out how each member of the board voted on a particular question, no matter what method of voting is used.
- A citizen may request to provide information at an open meeting but the board is under no requirement to allow public participation.
- The board may establish a process for citizens make requests to speak at an open meeting (e.g., request in advance, sign up before the meeting starts). However, there is no requirement.
- A governing body may request that a citizen or organization provide information at an open meeting.
- If minutes or similar records or tape recordings of the meeting are kept, they must be open to the public. However, minutes do not have to be posted for the public.

Closed Meetings or Executive Sessions

Who can answer questions about closed meeting or executive session requirements?

If you have any questions, contact your Land Resource Specialist (LRS) or the Arkansas Natural Resources Commission.

Is there any time the board can meet in a closed meeting or executive session? The only time a Conservation District board can meet in executive session is to take action on a personnel matter affecting a particular employee or officer to protect the privacy rights and reputation of the individual or officer

In an executive session or closed meeting, the board may discuss “employment, appointment, promotion, demotion, disciplining or resignation” of any specific employee or officer. Examples of when the board can close a meeting include:

- To consider demotion or discipline of an employee
- To screen and review job applications for an individual position
- To consider proposed employee pay raise
- To review performance of a particular employee and take a nonbinding “vote of confidence” (to consider an individual’s continued employment, promotion, demotion or changed compensation)

Who may be invited to participate in an executive session? Only certain people can be allowed to participate in a closed or executive session.

- Board members
- Employee whose performance will be discussed
- Immediate supervisor of employee
- NOT employee’s attorney or attorney for board
- NOT independent contractor’s or consultants

What must a board do before and after an executive session or closed meeting? A board must follow specified procedures to call

an executive session and after it completes an executive session.

- Must convene an open meeting in public to announce the purpose of the closed meeting or executive session before retiring
- A motion must be made, seconded and voted on to go into executive session.
- The motion does not need to include the name or position of the individual or the action to be considered so that the individual’s privacy may be protected.
- Must re-convene an open meeting after the executive session to publicly present and adopt any board decision considered during an executive session
- Must disclose the person an/or position discussed when the board reconvenes
- Proper notice (as described above) must be given even if all or part of a board meeting will be held in executive session.

What sources were used to prepare this information?

*Adapted for Conservation Districts from the **Arkansas Open Government Guide**, 5th edition, 2006 and published by The Reporters Guide To Freedom of the Press. The complete Guide, including citations is at <http://www.rcfp.org/ogg/index.php>.*