

# Celebrating 65 Years of Open Government with Nevada's Open Meeting Law

BY SARAH A. BRADLEY, ESQ.

**The Open Meeting Law (OML) is codified in NRS Chapter 241 and is essential to democracy, as it allows citizens an opportunity to observe and participate in decisions made by their government. The OML's 65<sup>th</sup> anniversary was February 17, 2025.<sup>1</sup> It was enacted by the Nevada Legislature, post-World War II, during a time when there was a lot of scrutiny of government, increasing concerns regarding government action, and a call for transparency in government.<sup>2</sup> It passed 12-3 in the Assembly and unanimously (15 votes) in the Senate.**







“Open government” is a term that was first used by Wallace Parks in a 1957 article,<sup>3</sup> and it has since become widely used to include both open meetings laws and public records laws. In enacting the OML, the Nevada Legislature stated in NRS 241.010 that “all public bodies exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.” This premise has guided the courts and the Office of the Attorney General (OAG) in interpreting and enforcing the law.<sup>4</sup>

The OML has stood the test of time in Nevada, and recent changes to the OML in 2021 and 2023 codified use of remote technology systems and removed the long-standing requirement that all meetings have at least one public place for citizens to attend and participate in the meeting. Now, if it is properly noticed and the public is provided the information necessary to participate, a meeting may be held entirely via a remote technology system. These changes allow more people, especially those in rural locations that may be far from metropolitan areas like Reno and Las Vegas, to attend and participate remotely in government meetings.

In general, the OML requires that all public bodies publish meeting agendas, only discuss and deliberate on items that are agendaized, and take action only when noted on their agenda and in a manner that is clear to the public. Further, all public bodies must record (or transcribe) their

meetings and ensure that minutes are made available to the public after each meeting. Any exception to the OML should be construed narrowly and in favor of openness.<sup>5</sup>

### **Specific Requirements and Questions That Arise**

Pursuant to NRS 241.020, meeting agendas must include the time, place, and location of the meeting, including a list of clear and complete agenda items, with action items clearly denoted as “for possible action.” But what exactly is clear and complete? As an attorney reviewing and approving meeting agendas for public body clients, I always asked myself when reading the agenda item, do

I understand what may be discussed/decided/contemplated here, and, do I think a member of the public who likely has less knowledge about the public body will have enough information to understand what may be discussed/decided/contemplated here? If the answer to one or both questions was “no,” then more detail was needed. In

analyzing this question, the Nevada Supreme Court has said that a higher degree of specificity is necessary for topics of substantial public interest.<sup>6</sup> This requirement would then involve an item-by-item analysis and potentially require more detail for some agenda items when compared to others, if those items are of more interest to the public.

Other items that must be included in the agenda are a list of locations where the agenda was posted (now online-only posting is sufficient) and the name and contact information for the person the public may contact to request supporting materials and locations where the

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supporting materials are available. If any portion of the meeting will be closed, the statutory authority authorizing the closure of the meeting must be included on the agenda, as well as the name of the person if that closure is to allow the public body to consider the character, alleged misconduct, or professional competence of a person.<sup>7</sup> All public meeting agendas must include clearly designated public comment periods and any limitations for public comment, as well as a notification that items on the agenda may be taken out of order, may be combined for consideration, and may be removed from the agenda or moved to a future meeting agenda at any time.

Part of publishing a meeting agenda includes sending that agenda to all people who are on the agency's mailing list for meeting agendas. Public bodies also must make reasonable efforts to assist and accommodate persons with physical disabilities who wish to attend the meeting.<sup>8</sup> One copy of the agenda, any supporting materials, and the recording of a public meeting must be provided at no cost to a member of the public requesting them, and at least one copy of the agenda and supporting materials must be made available to a member of the public, upon request, at the meeting. Supporting materials must be made available to the public when they are provided to public body members. However, please note that there is no requirement for state agencies to post supporting materials on their website, although they may do so. Local governments consisting of 52,000 or more in population must post supporting materials on their website. Meeting minutes must be kept in conformance with NRS 241.035 and include the date, time, and place of the meeting; members in attendance; the substance of all matters proposed, discussed, or decided; and the substance of remarks made by any member of the public or their

written remarks, if requested. A verbatim transcript is not required.

A public body must allow public comment at designated periods on its agenda. At least one public comment period must be allowed prior to taking any action at the meeting, and at least one public comment period must allow comment on any matter that is not on the meeting agenda. Any restriction on public comment during a public meeting must be reasonable as to "time, place, and manner." The president or chair of the public body may halt public comments that become unduly repetitive, that stray from the scope of a specific agenda topic for which comment is offered, or halt conduct that is willfully disruptive.<sup>9</sup>

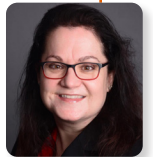
Parliamentary procedure is not addressed in the OML, and the public body should use whatever procedure best ensures that the record is clear. Some public bodies use *Robert's Rules of Order* as guidance, although few likely know the content of all 816 pages of *Robert's Rules* well enough to fully utilize it and, in any event, the OML will control for any conflict between *Robert's Rules* and the OML.

Members of a public body should disclose any potential conflicts pursuant to NRS Chapter 281A and abstain only in a clear case where the independence of judgment of a reasonable person in that situation would be materially affected by the conflict of interest disclosed.<sup>10</sup> Any disclosure by a member of the public body or abstention must be recorded in the minutes for that meeting. Please note that the quorum of the public body may be reduced pursuant to NRS 281A.420(5) for an abstention made under that provision.

Nevada's OML has been providing opportunities for its citizens to participate in government meetings and decisions for more than six decades, and it is well-placed to continue for the next six decades.

## SARAH A. BRADLEY

has been the deputy executive director at the Nevada State Board of Medical Examiners since November 2019. Prior to that, she spent more than 12 years in the Boards and Open Government Division at the Office of the Attorney General, where she represented multiple state agencies, primarily in administrative law matters. Bradley grew up in the Seattle area and graduated from the University of Idaho, College of Law in 2006. After completing law school, she clerked for the Honorable Dan L. Papez and the Honorable Steve L. Dobrescu in Nevada's Seventh Judicial District Court. She has been the Public Lawyers' Section chair since 2018. She lives in Reno with her dogs Atticus, Oliver, and Manuca. In her free time, she enjoys volunteering with Big Brothers Big Sisters of Northern Nevada, mentoring undergraduate students interested in attending law school through La Voz at the William S. Boyd School of Law, and rescuing dogs with Res-Que.





ENDNOTES:

1. AB 1 (1960), legislative history available at <https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/pre1965/AB001,1960.pdf>.
2. Post-World War II, there was a push to distinguish democracy from fascism and secret government action utilized by Axis Powers. By 1976, all 50 states had open government or “sunshine” laws. See Judy Nadler and Miriam Schulman, Open Meetings, Open Records, and Transparency in Government. Markkula Center for Applied Ethics, Santa Clara University, available at <https://www.scu.edu/government-ethics/resources/what-is-government-ethics/open-meetings-open-records-transparency-government/>. See also Alex Aichinger, Open Meeting Laws and Freedom of Speech. Free Speech Center, Middle Tennessee State University, available at <https://firstamendment.mtsu.edu/article/open-meeting-laws-and-freedom-of-speech/>.
3. Wallace Parks, Open Government Principle: Applying the Right to Know Under the Constitution, 26 GEO. WASH. L. REV. 1 (1957).
4. For information about the OML and questions that have been raised regarding its application, please go to the OAG’s website at [https://ag.nv.gov/About/Governmental\\_Affairs/OML/](https://ag.nv.gov/About/Governmental_Affairs/OML/). Actions taken in violation of the OML are void. NRS 241.036. The OAG has statutory enforcement powers for the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040.
5. *Chanos v. Nevada Tax Comm’n*, 124 Nev. 232, 239, 181 P.3d 675, 680 (2008). See also *McKay v. Board of Supervisors*, 102 Nev. 644, 730 P.2d 438 (1986).
6. *Sandoval v. Board of Regents*, 119 Nev. 148, 154–55, 67 P.3d 902, 906 (2003).
7. There are also additional notice requirements to specified persons pursuant to NRS 241.033 and NRS 241.0333, if a public body is considering character, misconduct, competence or health of a person or taking administrative action against a person.
8. NRS 241.020(1). See also Americans With Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* (1990). <https://www.ada.gov/pubs/adastatute08.htm>.
9. NRS 241.030(4)(a). See also *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266 (9th Cir. 1995); *White v. City of Norwalk*, 900 F.2d 1421, 1425–26 (9th Cir. 1990).
10. NRS 281A.420; see also *Carrigan v. Commission on Ethics*, 129 Nev. 894, 313 P.3d 880 (2013).



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