

## WISCONSIN OPEN MEETING LAW

As a public agency, the University of Wisconsin Oshkosh is subject to the state's open meetings law (19.81 et seq., Wis. Stats.). This law requires advance notice of meetings of the governance organizations and certain University Committees; the law also restricts and limits the circumstances under which these "governmental bodies" may meet in closed session. The law is based on the policy that the public right to attend and observe meetings must be respected, consistent with the conduct of governmental business.

Under the Wisconsin Open Meetings Law, committees may conduct a closed meeting (but are not required to meet in closed session) for the purpose of reviewing and voting on the credentials of applicants. However, in order for a committee to lawfully meet in closed session, all of the following conditions must be satisfied:

1. the committee must provide legally-sufficient public notice of the meeting
2. the meeting notice must identify the specific subject matter of the anticipated closed session
3. the meeting notice must also specifically identify the statutory basis that authorizes meeting in closed session
4. the meeting must start in open session and then properly reconvenes in closed session
5. the motion to meet in closed session (and the vote on that motion) must be recorded in the official minutes of the meeting

A closed meeting, therefore, can be held only by specific action of the committee.

Committee chairs should send notices of all committee meetings to the University News Bureau for possible inclusion within THE BULLETIN. Note: The University now provides a form that can be used to provide public notice of meetings. This form also provides information to facilitate compliance with the open meeting law.

Meeting notices may also be posted on the departmental bulletin board. Notices must be published or posted at least 24 hours in advance of the scheduled meeting. When notices of meetings are sent to the News Bureau or posted announcing a meeting, they should also include the statement that it is contemplated that the body will meet in closed session (this statement must also identify the subject matter and the statutory basis of this closed session).

At the meeting, the committee chair should say, "I will now entertain a motion to reconvene in closed session to review credentials and to consider the formation of a recommendation on \_\_\_\_\_." When a chair entertains this motion to reconvene in closed session, the chair should specifically cite the appropriate sections of the Wisconsin Statutes that authorize this closed meeting [i.e., most likely sections 19.85 (1)(c) and (f)]. See Form 1. The meeting minutes must record the motion as offered and seconded to convene in a closed session. Further, this motion "...shall be carried by majority vote in a manner that the vote of each member is ascertained and recorded in the minutes" (section 19.85). In the event the motion fails, the meeting must be conducted in open session. If the motion passes, the meeting will then be closed, with only members of the committee or individuals invited by the committee being eligible to attend.

Secret ballots may not be cast. Balloting can proceed in the following manner: a show of hands; signed ballots that will be saved and attached to the minutes; or each person's vote can be recorded in the minutes; or a roll call vote, if requested by at least one member, with each person's vote recorded in the minutes. In general, you may not close a meeting and immediately reconvene again in open session. In these instances, section 19.85 (2) applies: "No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session."

In cases where a decision is made by an individual such as a chairperson, dean, etc., the Open Meeting Law does not apply since an individual does not constitute a "governmental body."

The law requires a minimum 24-hour advance notice of meeting "unless for good cause such notice is impossible or impractical, in which case [notice as short as two hours may be given]". Meeting notices should be provided to the News Bureau (for listing in THE BULLETIN), and may be posted on appropriate bulletin boards. Academic departments (and subunits of departments) are exempt from the notification requirements, but the meeting notice must be "reasonably likely to apprise interested persons and news media who have filed written requests for such notice."

Meetings may only be closed to the public if the notice of meeting includes reference to a contemplated closed session. The grounds for closing a meeting are limited, as set forth in 19.85 (1), Wis. Stats. The statutes also establish a mandatory protocol for closing the meeting.

## CHECKLIST – PROTOCOL FOR MEETING IN CLOSED SESSION

- (1) The meeting notice must include notice of contemplated closed session (and identify the subject matter of that closed session).
- (2) A motion must be made in open session to convene in closed session.
- (3) The presiding officer must announce:
  - (a) the nature of the business to be considered in closed session and
  - (b) the specific exemption(s) claimed to authorize meeting in closed session.
- (4) The announcement of the presiding officer (above) must become a part of the record of the meeting.
- (5) The motion must carry by majority vote and the vote of each member must be ascertained and recorded in the minutes.
- (6) The only business that may be taken up in closed session is that which related to matters contained in the presiding officer's announcement.
- (7) The statutes do not address the question of whether voting can be done in closed session. The attorney general has opined that voting is permissible in those instances where the vote is an integral part of the reason for meeting in closed session; a decision by the court of appeals raised questions concerning this opinion. Therefore, if the members of a governmental body anticipate a compelling reason to vote in closed session, they should seek legal advice on this issue before that meeting is held.

**University of Wisconsin Oshkosh  
Meeting Notice**

**Name of Committee or  
Organization:**

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**Meeting Time:**

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**Meeting Date:**

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**Meeting Location:  
(Bldg. & Room No.)**

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**MEETING AGENDA**

**Open Session:**

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ALWAYS CONVENE

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IN OPEN SESSION

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IDENTIFY SUBJECTS TO

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BE ADDRESSED

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FOLLOWING MANDATORY

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PROTOCOL TO CONVENE

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IN CLOSED SESSION

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**Closed Session**

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(If Applicable):

IDENTIFY SUBJECTS &

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SPECIFIC STATUTORY

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EXEMPTION

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**Open Session**

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(If Applicable):

IF SECOND OPEN SESSION

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ANTICIPATED, IT MUST BE

NOTICED HERE

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**Notice Prepared By:**

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**Date Prepared:**

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## Introduction

This form may be used to provide public notice of various types of University meetings. For University Organizations subject to the advance notice requirements of the Wisconsin Open Meeting Law:

- A. The meeting notice must be presented in a form “reasonably likely to apprise members of the public and the news media”. One way to fulfill this obligation is to file a copy of this notice with the University News Bureau, Room 238, Dempsey Hall.
- B. A minimum of 24 hours’ advance notice must be given, “unless for good cause such notice is impossible or impractical, in which case shorter notice may be given [provided it is not less than 2 hours]”.

Meetings of academic departments and subunits of departments (e.g., committees) must be “reasonably likely to apprise interested persons and news media who have filed written requests for such notice”. (Once again, filing this form with the News Bureau can satisfy this condition.)

## Technical Comments

1. Academic departments and subunits (such as personnel committees) are exempt from some of the strict notice requirements of the Open Meeting Law. However, academic departments and subunits are still required to “provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice”. (Note: the exemption for academic departments does not extend to college or university committees or organizations.) All University created boards, commissions, committees, councils or other like entities that are created by statute, rule, policy, or order are subject to the open meeting law.
2. All meeting announcements must include “the time, date, place and subject matter of the meeting, including that intended for consideration, at any contemplated closed session”. All meeting announcements must be presented “in such form as is reasonably likely to apprise members of the public and the news media thereof.”
3. All meetings must convene in open session. Meetings may only convene in closed session if the notice meeting included an identification of the subject(s) intended for consideration in closed session as well as the specific statutory exemption allowing meetings to be held in closed session.
4. Mandatory Protocol for Convening in Closed Session; Comments.  
First A motion must be made that the organization convenes in closed session.  
Second The chief presiding officer of the meeting must announce to those present at the meeting the nature of the business to be considered during the closed session and the specific statutory exemption or exemptions that allow the closed session to be held.  
Third The motion to convene in closed session must be approved and the vote of each member must be recorded.  
Fourth The official minutes of the meeting must record the motion as well as the vote of each member.  
Fifth Once convened in closed session, no business other than which relates to the announcement of the chief presiding officer may be conducted.
5. The original meeting notice must indicate whether the meeting will reconvene in open session after any scheduled closed session. If this notice is not provided in the original announcement, the organization cannot reconvene in open session with less than 12 hours advance notice.

### Abbreviated Listing of the Statutory Exemptions Allowing Closed Sessions (See the complete text in subsection 19.85 (1) of the Wisconsin Statutes)

Section	Abbreviated Description
§19.85 (1)(a)	case deliberation or hearing
§19.85 (1)(b)	dismissal, demotion, discipline; tenure action
§19.85 (1)(c)	consideration of employment, promotion, compensation or performance evaluation data
§19.85 (1)(f)	consideration of financial, medical, social or personal histories or disciplinary data; preliminary consideration of specific personnel problems
§19.8 (1)(g)	conferring with legal counsel (litigation-related items)