



CONNECTICUT STATE
COLLEGES & UNIVERSITIES
BOARD OF REGENTS FOR HIGHER EDUCATION

FREEDOM OF INFORMATION ACT

Public Meetings Guide



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PUBLIC MEETING

Public Meeting

WHAT IS A PUBLIC MEETING?

Under the Connecticut Freedom of Information Act (FOIA), “[m]eeting” means:

1. “any hearing or other proceeding of a public agency,”
2. “any convening or assembly of a quorum of a multimember public agency, and”
3. “any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has **supervision, control, jurisdiction or advisory power.**” (Emphasis added.)ⁱ

Meetings of the Board of Regents for Higher Education (BOR) and the public institutions governed by the BOR are required to be open to the public under the FOIA.ⁱⁱ Members of the public have a right to attend any meeting of a public agency by simply showing up at the meeting place.ⁱⁱⁱ A public institution cannot require that a member of the public sign in or provide personal information, like their address or telephone number, in order to attend a public meeting.^{iv}

While the public has a right to attend public meetings of the BOR and the Connecticut State Colleges and Universities (CSCU), members of the public do not have a right to speak at such meetings. As a courtesy, however, a public institution may permit members of the audience to comment at a designated time during a public meeting. The public has a right to tape record, photograph and broadcast public meetings, “as inconspicuously as possible and in such a manner as not to disturb the proceedings of the public [institution].”^v It should also be noted that public institutions may remove disruptive members of the audience pursuant to the FOIA.^{vi}

Except where specified under federal or state statute, e.g., the FOIA, the procedures for conducting public meetings are governed by institution policy.^{vii}

TYPES OF PUBLIC MEETINGS

There are three types of public meetings under the FOIA; **Regular**, **Special**, and **Emergency**. As discussed below, each type of public meeting has specific requirements under the FOIA.

Regular Meeting

Regular meetings of public institutions are regularly recurring meetings whose times, dates and places are set forth in a schedule of regular meetings filed with the Secretary of the State by January 31 of each year and made available for public inspection at the institution’s regular office or place of business. If a public institution maintains a website, it also must post its schedule of regular meetings on such website.

Special Meeting

A **Special** meeting is a meeting a public institution determines it must conduct before the next regular meeting and for which it must provide at least twenty-four (24) hours advance notice with the Secretary of

PUBLIC MEETING

the State. The institution must also make such notice available for public inspection at the institution's regular office or place of business at least 24 hours before the special meeting. If a public institution maintains a website, it must post its special meeting notices on such website.

Emergency Meeting

An **Emergency** meeting of a public institution is a meeting which the public institution determines must be convened within twenty-four (24) hours; therefore, insufficient time for notice of a special meeting.^{viii} Note that there must be a bona fide emergency necessitating the meeting within 24 hours.

NON-PUBLIC MEETINGS AND EXECUTIVE SESSIONS

Non-Public Meetings and Executive Sessions

NON-PUBLIC MEETINGS

“Meeting’ does not include:”^{ix}

1. “[a]ny meeting of a personnel search committee for executive level employment candidates;”^x
2. “any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business;”
3. “strategy or negotiations with respect to collective bargaining;”
4. “a caucus of members of a single political party notwithstanding that such members also constitute a quorum of a public agency;”
5. “an administrative or staff meeting of a single-member public agency; and”
6. “communication limited to notice of meetings of any public agency or the agendas thereof.”

EXECUTIVE SESSIONS

“Executive session” means “[a portion of a] meeting of a public [institution] at which the public is excluded for one or more of the following purposes:

(A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting;

(B) strategy and negotiations with respect to pending claims^{xi} or pending litigation^{xii} to which the public agency or a member thereof, because of the member’s conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled;

(C) matters concerning security strategy or the deployment of security personnel, or devices affecting public security;

(D) discussion of the selection of a site or the lease, sale or purchase of real estate by the state or a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would adversely impact the price of such site, lease, sale, purchase or construction until such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned; and

(E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) of section 1-210.”^{xiii}

NON-PUBLIC MEETINGS AND EXECUTIVE SESSIONS

Only public institution members may attend an executive session portion of a public meeting, with the exception of persons invited to testify or give opinion. However, the attendance of a person invited to testify or give opinion during the executive session portion of a public meeting is limited to the time such persons are providing testimony or opinion. Members of a public institution must vote in public, by at least 2/3rds of those present and voting, to convene in executive session, and must state the purpose for executive session.

NOTICES, AGENDAS AND MINUTES OF MEETINGS

Notices, Agendas and Minutes of Meetings

NOTICES

Regular Meeting Notice

Public institutions are required to annually file by January thirty-first (31) of each year, the schedule of its regular meetings in the Office of the Secretary of the State and must post such schedule on the public institution's Internet web site, if available.

Special Meeting Notice

"Notice of each special meeting of [a] public [institution] ... [must] be posted not less than twenty-four hours before the meeting to which such notice refers on the public agency's Internet web site, if available..." The special meeting notice must be given not less than twenty-four hours prior to the time of such meeting by filing the notice ... in the office of the Secretary of the State ...^{xiv} "The notice [must] specify the time and place of the special meeting and the business to be transacted."

Emergency Meeting Notice

A public institution may hold an Emergency meeting without complying with the notice requirements under the FOIA, if there is a bona fide emergency justifying such emergency meeting.^{xv}

AGENDAS

A meeting agenda must "fairly apprise the public of the action proposed" and of the "matters to be taken up at the meeting in order to [permit the public] to properly prepare and be present to express their views."^{xvi} An executive session listed on an agenda must also fairly apprise the public of the reason for such session. Thus, an agenda item stating "Executive Session – Personnel Matters" is inadequate and more specificity is required based on Freedom of Information Commission (FOIC) final decision precedents.^{xvii}

Regular Meeting Agenda

A public institution must make the agenda of its regular and special meetings available to the public at least twenty-four (24) hours before the meetings to which they refer: "(1) in such [institution's] regular office or place of business, and (2) in the office of the Secretary of the State..." The FOIA also requires that a public institution post such agenda of its regular meetings on the institution's and the Secretary of the State's web sites. Members of a public institution must vote in public, by at least 2/3rds of those present and voting, to add any business to the agenda to be considered and acted upon at such regular meeting.^{xviii}

Special Meeting Agenda

A public institution must make the agenda of its special meetings, detailing the business to be transacted, available to the public at least twenty-four (24) hours before the meetings to which they refer: "(1) in such institution's regular office or place of business, and (2) in the office of the Secretary of the State. The FOIA also requires that a public institution post such agenda of its special meetings on the institution's and the Secretary of the State's web sites. Note that no other business may be added or considered at such special meeting.^{xix}

NOTICES, AGENDAS AND MINUTES OF MEETINGS

Emergency Meeting Agenda

A public institution may hold an Emergency meeting without complying with the agenda requirements under the FOIA, if there is a bona fide emergency justifying such emergency meeting. Note, however, that only emergency matters may be considered at such emergency meeting.^{xx}

MINUTES

The FOIA requires that the following be included in the minutes of a public institution:

1. Time of convening and adjournment.
2. Date and place of the meeting.
3. Names of institution members attending and how they voted on each issue.
4. Statement of each issue discussed or acted on.
5. Purpose of any executive session and who attended such executive session.

Regular Meeting Minutes

Minutes of a public institution's regular meeting must be made available for public inspection and posted on the public institution's website, if available, within seven (7) days of such meeting. Such minutes must adequately set forth the reason for the regular meeting and the business transacted at such meeting.

Special Meeting Minutes

Minutes of a public institution's special meeting must be made available for public inspection and posted on the public institution's website, if available, within seven (7) days of such meeting. Such minutes must adequately set forth the reason for the special meeting and the business transacted at such meeting.

Emergency Meeting Minutes

Minutes of a public institution's emergency meeting must be made available for public inspection and posted on the public institution's website, if available, within seventy-two (72) hours of such meeting. Such minutes must adequately set forth the reason for the emergency meeting and the business transacted at such meeting.^{xxi}

Record of Votes

A record of institution member votes must be "reduced to writing and made available for public inspection within forty-eight hours [(48)] hours." Note that the record of institution member votes must also be included in the minutes of public meetings.^{xxii}

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

WHAT ARE MULTIMEMBER PUBLIC INSTITUTIONS?

- Multimember public institutions are public agencies subject to the open meeting requirements under the FOIA. Since Connecticut Courts interpret the provisions of the FOIA broadly, as presumptively permitting the public to access all public meetings with limited exceptions, many bodies or groups of public institutions may be subject to the public meeting requirements under FOIA. Examples of multimember public institutions include, but are not limited to: a board, committee, council, conference, panel, task force, working group, or other similar group, or subcommittee or subgroup thereof. In determining whether a particular entity is subject to the FOIA's open meetings requirements, institutions should look at the entity's characteristics (e.g., funding, purpose, authority, connection to the public institution, public benefit of the body, created by, subject to, or created for the benefit of CSCU institutions, etc.). Bodies or groups that are multimember public institutions must comply with the meeting provisions under the FOIA unless expressly excluded from the public meetings requirements under the FOIA or other applicable law.

WHAT MEETINGS OF A COLLEGE OR UNIVERSITY BODY CONSTITUTE PUBLIC MEETINGS?

- A meeting of a multimember college or university body (such as a board of trustees or faculty senate) is a public meeting if such meeting constitutes a "hearing or other proceeding" of that body, or is a "convening or assembly of a quorum of" that body, or consists of "communication by or to a quorum of" that body **"to discuss or act upon a matter over which the public [institution] has supervision, control, jurisdiction or advisory power."** (Emphasis added.)^{xxiii}

WHAT NUMBER OR PERCENTAGE OF MEMBERS CONSTITUTES A QUORUM OF A MULTIMEMBER BODY OF A PUBLIC INSTITUTION FOR PUBLIC MEETING PURPOSES?

- A quorum of a multimember body is comprised of the minimum number of members necessary for such members to conduct the business of the body. Generally, quorum is defined in the governing regulations, charter, or policy of the public institution.

IS A QUORUM OF A MULTIMEMBER BODY OF A PUBLIC INSTITUTION REQUIRED FOR A MEETING TO BE SUBJECT TO THE FOIA?

- **No.** A meeting is still subject to the FOIA even if a quorum of the body isn't present. See, *Emergency Medical Services Commission of the Town of East Hartford v. Freedom of Information Commission*, 19 Conn. App. 352 (1989). See also, the FOI Commission's Final Decision in *Gloria Sterns v. Board of Finance, Town of Ridgefield*, Docket #FIC 1998-135.^{xxiv} Note that "[a] quorum of the members of a public agency who are present at any event which has been noticed and conducted as a meeting of another public agency under the provisions of the Freedom of Information Act **shall not** be deemed to be holding a meeting of the public agency of which they are members as a result of their presence at such event." (Emphasis added.) Conn. Gen. Stat. §1-200 (2).

FREQUENTLY ASKED QUESTIONS

MY ADMINISTRATIVE WORKING GROUP HAS A BOARD MEMBER OR REGENT ON IT – IS THE WORKING GROUP SUBJECT TO THE FOIA'S MEETING REQUIREMENTS?

- **This is determined on a case-by-case basis.** Generally, a small designated group of a public institution (e.g., a committee or subcommittee) is held to the same meeting requirements under the FOIA as every other multimember body of the public institution. See, *East Hartford Town Council v. FOIC*, Docket No. CV 960549602 (Jan. 24, 1996, Maloney J.). However, depending on the nature and/or function of smaller groups within a public institution and the role the board member is playing in the working group, such groups may not be subject to the meeting provisions outlined herein. See, e.g., **FAQ on administrative or staff meetings of public institutions, below.** Please consult the BOR's FOI Legal Resource Officer, Gregory F. Daniels, at 860-723-0018 or DanielsG@ct.edu for more information on this matter.

ARE EMAIL EXCHANGES BETWEEN MEMBERS OF A MULTIMEMBER BODY OF A PUBLIC INSTITUTION SUBJECT TO THE FOIA'S MEETING REQUIREMENTS?

- **Yes**, if within such email exchanges by members of the body, members are discussing or acting “upon a matter over which the public [institution] has supervision, control, jurisdiction or advisory power.”
- **No**, if the board members are exchanging procedural emails in which members discuss meeting scheduling or administrative matters pertaining to the conduct of the public institution's business (e.g., the unavailability of a member to attend a regular meeting).

ARE ALL PERSONNEL SEARCH COMMITTEES EXEMPT FROM THE FOIA'S MEETING REQUIREMENTS?

- **No.** The FOIA defines “Personnel Search Committee as “a body appointed by a public agency, whose sole purpose is to recommend to the appointing agency a candidate or candidates for an executive-level employment position.” Conn. Gen. Stat. § 1-200 (7). A personnel search committee “whose sole purpose is to recommend to the appointing [institution] a candidate or candidates for an executive-level employment position” is exempt from the FOIA's meeting requirements.

ARE UNPLANNED OR CHANCE MEETINGS OF A MULTIMEMBER BODY OF A PUBLIC INSTITUTION PUBLIC MEETINGS UNDER THE FOIA?

- **No.** Unplanned or chance meetings of multimember body of a public institution are not subject to the FOIA **if** no official business is conducted. *Elizabeth V. Varcoe v. Board of Selectmen of the Town of Redding, et al.*, Docket #FIC 85-138 (1985).

WHAT IS A SINGLE-MEMBER PUBLIC AGENCY UNDER THE FOIA?

- The FOIA does not define single-member public agency.^{xxv} However, examples of a single-member public agency may include, but are not limited to, the chairman of the governing board of a multimember public agency (e.g., Chair of Board of Regents), president of a public institution's system office, and a commissioner or executive director of a public agency.^{xxvi}

FREQUENTLY ASKED QUESTIONS

ARE ADMINISTRATIVE OR STAFF MEETINGS OF A SINGLE-MEMBER PUBLIC AGENCY SUBJECT TO THE OPEN MEETINGS REQUIREMENTS OF THE FOIA?

- **No.** A single-member public agency's administrative or staff meeting is not subject to the open meetings requirements of the FOIA. See, *New London Planning and Zoning Commission v. FOIC*, Docket No. CV 94-053-19-47, (May 1, 1996, Maloney, J.). See, also, *Richard Guinness and the Middletown Press v. Planning and Zoning Commission, City of Middletown*; and *the City of Middletown*, Docket #FIC 1998-322 (1999). For example, if a meeting of staff members of a public institution is attended by a single-member public agency (e.g., Chairman of the governing board), such meeting is not subject to the open meetings provisions of the FOIA.

A BODY OR OFFICIAL OF A PUBLIC INSTITUTION INVITED SEVERAL INDIVIDUALS (E.G., STAFF MEMBER, ATTORNEY) TO PROVIDE TESTIMONY AND OPINION ON MATTERS THAT THEY ARE PERMITTED TO DISCUSS DURING AN EXECUTIVE SESSION PORTION OF THEIR PUBLIC MEETING. HOW LONG CAN SUCH INVITED PERSONS REMAIN IN THE INSTITUTION'S EXECUTIVE SESSION UNDER THE FOIA?

- "At an executive session of a public agency, attendance shall be limited to members of said body and persons invited by said body to present testimony or opinion pertinent to matters before said body provided that such persons' attendance shall be limited to the **period for which their presence is necessary** to present such testimony or opinion . . ." (Emphasis Added).^{xxvii} In practice, properly invited persons who are providing testimony and opinion during an executive session may be asked to exit and return to the executive session for additional testimony or opinion.

WHAT CONSTITUTES A BONA FIDE EMERGENCY PERMITTING A BODY OR OFFICIAL OF A PUBLIC INSTITUTION TO CONDUCT AN EMERGENCY MEETING UNDER FOIA?

- The Freedom of Information Commission and the Connecticut Courts apply the commonly used meaning of the word "emergency" in determining what permits a public agency to conduct an emergency meeting.^{xxviii} The Freedom of Information Commission has consistently held that "circumstances which permit an emergency meeting occur only rarely and only when there is not time for a special meeting notice to be posted twenty-four hours in advance."^{xxix} Thus, oversight or failure to add an urgent item to a public meeting agenda alone does not constitute a bona fide emergency permitting a public body or official to conduct an emergency meeting.

PUBLIC MEETINGS CHART FOR PUBLIC INSTITUTIONS

Public Meetings Chart for Public Institutions

| TYPE | NOTICE | AGENDA/ NOTICE CONTENTS | ADDING TO AGENDA/ NOTICE | FILING RECORD OF VOTES | FILING MINUTES |
|------------------|---|--|--|--|---|
| Regular | File yearly schedule with Sec'y Of State (state) or Town Clerk (municipal) by Jan. 31 st .** | Agenda available at least 24hrs. before meeting.** | Agenda items may be added by 2/3 vote of those members present and voting. | Within 48 hrs. after meeting (if minutes not available within 48 hours). | Within 7 calendar days after meeting.*** |
| Special | At least 24 hrs. before meeting, file at Sec'y Of State (state) or Town Clerk (municipal).* | At least 24 hrs. before meeting. Time, place and business must be included in notice.* | Not permitted | Within 48 hrs. after meeting (if minutes not available within 48 hours). | Within 7 business days after meeting.*** |
| Emergency | None required if emergency is justified. | None required if emergency is justified. | Only emergency matters may be considered. | Within 48 hrs. after meeting (if minutes not available within 48 hours). | Within 72 hrs. after meeting. Must state reason for emergency.*** |

* Available with Secretary of the State (state) or Town Clerk and in place of business. Also, must be posted on agency website.

** Available with Secretary of the State (state) or Town Clerk and in place of business. Also, if a state agency, must be posted on agency website.

*** Must be posted on agency website if a state agency.

CONTACT INFORMATION

Contact Information

The purpose of these guidelines is to provide guidance to institution employees on how to comply with the FOIA meeting requirements.¹ This compilation is unofficial and for the convenience of institution employees only. While every effort was made to attain complete accuracy herein, institution employees are advised to consult the Connecticut General Statutes for the official codification of the law.

All inquiries concerning this handbook may be directed to the BOR's FOI Legal Resource Officer, Gregory F. Daniels, at 860-723-0018 or DanielsG@ct.edu.

¹ Public institution employees are expected to comply with the requirements of federal and state statutes when conducting public meetings.

ENDNOTES

Endnotes

ⁱ Conn. Gen. Stat. § 1-200 (2).

ⁱⁱ The BOR and the public institutions governed by the BOR each constitute a “public agency” within the meaning of Conn. Gen. Stat. § 1-200 (1).

ⁱⁱⁱ Conn. Gen. Stat. § 1-225 (a).

^{iv} Conn. Gen. Stat. § 1-225 (e).

^v Conn. Gen. Stat. § 1-226 (a).

^{vi} Conn. Gen. Stat. § 1-232.

^{vii} If BOR’s policy is silent on specific meeting procedures, an institution may reference *Robert’s Rules of Order* for guidance on meeting procedures.

^{viii} Conn. Gen. Stat. § 1-225 (d).

^{ix} Exclusions to the open meetings requirements of the FOI Act are generally found under Conn. Gen. Stat. § 1-200(2).

^x “**Personnel search committee**” is defined under the FOIA as: a body appointed by a public agency, whose sole purpose is to recommend to the appointing agency a candidate or candidates for an executive-level employment position. Members of a “**personnel search committee**” shall not be considered in determining whether there is a quorum of the appointing or any other public agency.

^{xi} Conn Gen. Stat. § 1-200 (8) defines “pending claim” as: “a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institution an action in an appropriate forum if such relief or right is not granted.”

^{xii} Conn Gen. Stat. § 1-200 (9) defines “pending litigation” as: “(A) a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action before a court if such relief or right is not granted by the agency; (B) the service of a complaint against an agency returnable to a court which seeks to enforce or implement legal relief or a legal right; or (C) the agency’s consideration of action to enforce or implement legal relief or a legal right.”

^{xiii} Conn. Gen. Stat. §1-200 (6).

^{xiv} Conn Gen. Stat. § 1-225 (d).

^{xv} Conn. Gen. Stat. § 1-225 (d).

^{xvi} See *Zoning Board of Appeals of the Town of Plainfield v. Freedom of Information Commission*, Docket No. CV 99-047917-S, 2000 WL 765186 (superior court, judicial district of New Britain, May 3, 2000), reversed on other grounds, *Zoning Board of Appeals of the Town of Plainfield v. Freedom of Information Commission*, 66 Conn. App. 279 (2001).

ENDNOTES

^{xvii} See, e.g., *Richard L. Stone v. Board of Selectmen, Town of Cromwell*, Docket #FIC 2010-738 (August 24, 2011) (agenda item “[e]xecutive session: [p]ersonnel,” did not fairly apprise the public of proposed matter to be discussed); *Preston D. Schultz and the Citizens for Prudent Spending v. Board of Education, Woodstock Public Schools*, Docket #FIC 2008-236 (February 25, 2009) (agenda item “discussion of attorney/client privilege [sic] documents and pending litigation,” did not fairly apprise the public); *Bradshaw Smith v. Milo W. Peck, Jr., Member, Board of Education, Windsor Public Schools*, Docket #FIC 2007-003 (August 8, 2007) (agenda item “employee personnel matters,” did not fairly apprise the public of the matter to be discussed in executive session); *John Voket and the Newtown Bee v. Board of Education, Newtown Public Schools*, Docket #FIC 2006-013 (October 11, 2006) (agenda item “executive session – personnel,” did not fairly apprise the public); *Trenton Wright, Jr. v. First Selectman, Town of Windham*, Docket #FIC 1990-048 (agenda item “executive session – personnel matters,” did not sufficiently state the reason for the executive session); and *Robert Cox v. Ridgefield Board of Education*, Docket #FIC 88-165 (January 25, 1989) (the agenda item listing executive session to “receive advice from legal counsel on a legal matter,” was insufficient).

^{xviii} Conn. Gen. Stat. § 1-225 (c).

^{xix} Conn. Gen. Stat. § 1-225 (d).

^{xx} Conn. Gen. Stat. § 1-225 (c).

^{xxi} Conn Gen. Stat. § 1-225 (d).

^{xxii} Conn Gen. Stat. § 1-225 (a).

^{xxiii} Conn. Gen. Stat. § 1-200 (2).

^{xxiv} A quorum is the minimum number of members of a multimember public institution necessary for such members to conduct the business of the group.

^{xxv} See Endnote ii, above.

^{xxvi} *Jesse M. Frankl, Chairman of the State of Connecticut, Work's Compensation Commission v. FOIC, et al.*, , Docket No. CV 970568431, 1998 Conn. Super. Lexis 129, (1998).

^{xxvii} Conn. Gen. Stat. § 1-231 (a).

^{xxviii} The Connecticut Supreme Court in *Board of Selectmen v. FOIC*, 294 Conn. 438, 449-50 (2009), quoted the following language in defining emergency: “See American Heritage Dictionary of the English Language (3d Ed. 1992) (defining emergency as “[a] serious situation or occurrence that happens unexpectedly and demands immediate action [or] a condition of urgent need for action or assistance”); Webster’s Third New International Dictionary (1961) (defining emergency as “an unforeseen combination of circumstances or the resulting state that calls for immediate action”).”

^{xxix} *Lebanon v. Wayland*, 39 Conn. Supp. 56, 61 (1983).