IDAHO ASSOCIATION OF COUNTIES

IAC FALL COUNTY OFFICIALS INSTITUTE

Idaho Open Meeting Law

Doing the public's business in public — a briefing for Idaho's local elected officials

[Presenter name] · [Event and date]



TODAY'S SESSION

Roadmap for today's session

Part	Topic	Minutes
1	Why open meetings matter	3
2	Who the law covers: agencies, governing bodies, quorums	5
3	What counts as a meeting — and what does not	9
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Sources: Idaho Code §§ 74-201 – 74-208 · AG Open Meeting Law Manual (July 2026) · Idaho Code ch. 65, title 67

THE POLICY BEHIND THE LAW

“The formation of public policy is public business and shall not be conducted in secret.”

> **When in doubt, open the meeting.**
> Idaho Attorney General’s guidance to every public body

Idaho Code § 74-201 · Open Meeting Law enacted 1974, recodified in Title 74 in 2015

PART 2

Who the law covers

Public agencies, governing bodies, and quorums

WHO IS COVERED

Two questions decide coverage

1. Is it a public agency?

- Every county and political subdivision
- Cities, school districts, and special districts
- Sub agencies created by executive order of the Governor, statute, ordinance, or other legislative act

2. Is it a governing body?

- Two or more members
- Authority to make decisions **or recommendations**
- Advisory boards count if created by executive order, statute, ordinance, or other legislative act and have authority to make decisions **or recommendations**

Not covered: offices headed by one official, voluntary staff meetings, nonprofits, and homeowners' associations.

Idaho Code § 74-202(4)–(5) · Safe Air for Everyone v. Idaho State Dep't of Agriculture, 145 Idaho 164 (2008)

WHO IS COVERED

A quorum is what turns a conversation into a meeting

BOARD OF COUNTY COMMISSIONERS

2 of 3

Any two commissioners discussing pending county business can be a meeting.

CITY COUNCILS AND OTHER BOARDS

Majority

Generally a majority of members — know your own board's number and rules.

Avoid attempted workarounds such as: below a quorum, serial one-on-ones or a go-between used to assemble a decision.

Idaho Water Resources Board v. Kramer, 97 Idaho 535 (1976) · AG Manual, Questions 9–10

PART 3

What counts as a meeting

Decisions, deliberation, and contact outside the meeting room

WHAT COUNTS AS A MEETING

Three defined terms to remember

Decision

Any determination, action, vote, or final disposition requiring a vote of the board, with a quorum present.

Excludes: ministerial or administrative steps carrying out a decision already made in a proper meeting.

Deliberation

The receipt or exchange of information or opinion relating to a decision.

Excludes: informal, impromptu talk of a general nature, not about a pending matter.

Meeting

The convening of a governing body to make a decision or to deliberate toward one.

Two kinds: regular (date fixed by law or rule) and special (called for a special stated business).

Idaho Code § 74-202(1), (2), (6)

WHAT COUNTS AS A MEETING

Simply listening to a briefing is deliberation

No debate, no vote, no discussion needed. A quorum receiving information about a pending matter is holding a meeting.

Setting is irrelevant

Formal, informal, or social — lunch, a car ride, a conference hallway.

Work sessions count

Pre-meeting briefings and work sessions need notice and an agenda.

Idaho Code § 74-202(2) · AG Manual, Questions 8–9

WHAT COUNTS AS A MEETING

Is it a meeting?

Scenario (three-member BOCC)	Answer	Why
Two commissioners discuss a pending road vacation over lunch	Yes	Quorum plus a pending matter
Two commissioners talk about the weather at the county fair	No	General, impromptu, not pending
Staff asks each commissioner separately how they will vote on a contract	Violation risk	Go-between used to poll members
Reply-all email thread among commissioners on a budget item	Yes	Electronic deliberation still counts
A quorum tours a proposed subdivision site	Yes	The public must be able to hear

AG Manual, Questions 9, 10, 19, 27 · Noble v. Kootenai County, 148 Idaho 937 (2010)

WHAT COUNTS AS A MEETING

Contact outside the meeting room

Citizens contacting one member

- You may discuss legislative or policy matters
- You may not discuss quasi-judicial matters
- Disclose who contacted you and the gist of what they said

Board Members contacting each other

- You may not discuss legislative, policy, or quasi-judicial matters
- Texts, email, and calls count as deliberation
- Emails and texts messages are public records

Rule of thumb: if it will shape your vote, it belongs in the public record.

Idaho Historic Preservation Council v. City Council of Boise, 134 Idaho 651 (2000) · AG Manual, Questions 12, 27

PART 4

Notice, agendas, and minutes

The mechanics that make a meeting lawful

NOTICE

Every meeting needs two notices

Meeting type	Meeting notice	Agenda notice	Also required
Regular	5 calendar days	48 hours	Monthly-or-more boards may post an annual meeting schedule instead
Special	24 hours	24 hours	Date, time, place, agency name; notify requesting media
Executive session only	24 hours	24 hours	State the reason and the § 74-206 subsection
Emergency	Excused	Excused	State the emergency at the outset of the meeting

An annual meeting schedule never replaces the 48-hour agenda for each meeting.

Idaho Code § 74-204(1)–(3) · AG Manual, Questions 14–16

NOTICE

Where notices and agendas must go

1

Physical posting

A prominent place at the agency's principal office — or the meeting building if there is no office.

2

Online posting

Mandatory if the agency has a website or any social media account.

3

News media

Keep a list of outlets that ask, and make a good-faith effort to notify them.

Newspaper publication is not required by this law — but other statutes, such as budget hearings, may require it.

Idaho Code § 74-204(1)–(2) · AG Manual, Question 14

AGENDAS

What a lawful agenda looks like

Specific items

List real business. No catch-alls like “director’s report” hiding decisions.

Action items labeled

Mark anything you may vote on as an “action item”. The label allows a vote; it does not require one.

Consent agenda limits

No ordinances, fee resolutions, or supermajority items. Any member can pull an item.

Good-faith completeness

Include every item known to be a probable topic of discussion.

Idaho Code § 74-204(4) · AG Manual, Question 17

AGENDAS

Amending an agenda: timing decides the steps

48+ HOURS OUT

Repost it

Posting the amended agenda is enough. (24+ hours for special meetings.)

→

INSIDE 48 HOURS

Post plus vote

Post it, then the board votes at the meeting to adopt the amendment.

→

AFTER IT STARTS

Motion, reason, vote

State why it wasn’t on the original agenda. No final action unless an emergency is declared.

Record the motion, the good-faith reason, and the vote in the minutes.

Idaho Code § 74-204(4)(a)–(c) · AG Manual, Question 18 and sample “Motion and Order to Amend Agenda”

RUNNING THE MEETING

Rules for conducting an open meeting

Remote members

Allowed, but one member or the director must be at the posted location.

Audible to all

The public in the room must hear every member, remote or not.

Recording

Anyone may record audio, video, or photos. No prohibitions or unreasonable restrictions.

No secret ballots

Written ballots must be signed or identifiable in some way and available to the public upon request.

Public comment

Not required by this law; public hearings under other laws may require it.

Venue

Never where discrimination by race, creed, color, sex, age, or national origin occurs.

Idaho Code § 74-203(1), (4)–(6) · AG Manual, Questions 13, 19–23, 25–26

MINUTES

Written minutes for every meeting

Open session minimum

- Members of governing body present
- Every motion, resolution, order, or ordinance proposed and its disposition
- Results of all votes — by name if a member asks
- Public within a reasonable time

Executive session

- The specific § 74-206 subsection relied on
- Enough detail to identify purpose and topic
- Nothing that compromises the reason for executive session
- Roll call vote to enter, recorded by name

No transcript or recording is required by this law — though other laws may require one.

Idaho Code §§ 74-205, 74-206(1) · AG Manual, Questions 22, 24

PART 5

Meeting and hearing procedures

Running business in order, and holding hearings that survive appeal

MEETING PROCEDURE

The chair's job and the rules of debate

The chair

- Takes business in agenda order
- Recognizes speakers and rules motions in order
- Keeps discussion on the pending motion
- Stays impartial in conducting the meeting and maintains order
- Alternates between support and opposition

Debate

- Stay relevant to the pending question
- Speak twice at most, after all have spoken once
- Address the chair
- Debate focus on issues, not personalities
- For three-member board, chair should fully participate in discussion and debate
- Two-thirds vote closes or changes debate

One question at a time; members can ask to have it restated before the vote.

MEETING PROCEDURE

Six steps to handle a main motion

1 · Recognized
A member gets the floor from the chair.

2 · Motion
"I move that…" states the proposal.

3 · Second
Another member agrees it should be considered.

4 · Debate
Chair restates it; the maker speaks first.

5 · Vote
Chair restates it, then calls ayes and nays.

6 · Announce
Chair states the result — for the minutes.

Amend before the vote by striking, inserting, or substituting words.

Robert's Rules of Order — The Basics for Small Boards · Minutes requirement: Idaho Code § 74-205(1)

HEARING PROCEDURE

An open meeting is not a public hearing

	Open meeting	Land Use Public hearing
Required by	Open Meeting Law, every meeting	A specific statute, e.g., LLUPA
Public input	Not required	Affected persons present and rebut evidence
Notice	5 days posted; agenda 48 hours	15 days published, plus mailing and site posting
Record	Written minutes	Verbatim recording plus minutes
Decision	Vote recorded in minutes	Written, reasoned decision on the record

Idaho Code §§ 74-204, 74-205 · §§ 67-6509, 67-6512, 67-6534 – 67-6536

HEARING PROCEDURE

A typical order for a quasi-judicial hearing

Step	What happens	Why it matters
1	Open the hearing; disclose	Conflicts and outside contacts go on the record first
2	Staff report	Identifies the approval standards in the ordinance
3	Applicant presents	Shows how the proposal meets those standards
4	Public testimony	Support, neutral, then opposition
5	Applicant rebuttal	Every affected person may present and rebut evidence
6	Close the hearing	No new evidence after this point
7	Deliberate and decide	On the record only, in open session

Idaho Code § 67-6534 · Idaho Historic Preservation Council v. City Council of Boise, 134 Idaho 651 (2000) · Follow your adopted procedures

HEARING PROCEDURE

Land use conflicts: disclose, then step out

Who counts

You, your employer, a business partner or associate, or a relative within the second degree with an economic interest.

What to do

Disclose any actual or potential interest at or before the meeting, and take no part in deliberations.

The stakes

A knowing violation is a misdemeanor.

“Participation” means anything that counts as deliberation under the Open Meeting Law.

Idaho Code § 67-6506

HEARING PROCEDURE

Decisions must be written, reasoned, and recorded

Every approval or denial

- Applies express standards from the plan or ordinance
- Is in writing, with a reasoned statement
- States the criteria, the contested facts relied on, and the rationale
- Tells the applicant of the right to a regulatory taking analysis

14 days to request reconsideration

60 days to decide it, or it's deemed denied

28 days to seek judicial review after local remedies exhausted

Keep a transcribable verbatim record for at least six months after the final decision.

Idaho Code §§ 67-6521(1)(d), 67-6535, 67-6536

PART 6

Executive sessions

The only lawful way to close a meeting — and it is narrow

EXECUTIVE SESSIONS

Four steps to go into executive session

1

Open meeting

Start in a properly noticed open meeting.

2

Motion

Cite the specific § 74-206(1) subsection.

3

Roll call

Two-thirds of the governing body must vote yes.

4

Record it

Each member's vote goes in the minutes.

BOCC: two of three must vote yes.

Five-member board: four of five.

Idaho Code § 74-206(1) · AG Manual, Questions 28–29 and sample "Executive Session Motion and Order"

EXECUTIVE SESSIONS

Authorized reasons to close a meeting

§	Purpose	Watch out for
(a)	Hiring: evaluating candidates for a specific vacancy	Not elected-office vacancies or general staffing
(b)	Evaluating, disciplining, or hearing complaints against staff	Not "general personnel matters"
(c)	Acquiring real property not owned by a public agency	Not selling or buying public property
(d)	Considering records exempt from disclosure	Must be exempt under Title 74, Ch. 1
(e)	Trade negotiations competing with other states or nations	Rare in local government work
(f)	Talking with counsel about pending or imminent litigation	Counsel merely present is not enough
(i)	Talking with the risk manager or insurer about a claim	Insurer merely present is not enough
(j)	Labor contract offers and counteroffers under § 74-206A	Negotiations themselves are open

Idaho Code §§ 74-206(1), 74-206A · (g) and (h) apply only to the pardons commission and juvenile custody review board

EXECUTIVE SESSIONS

Hard limits inside the closed room

No final action
Every vote and decision happens after you return to open session.

No topic switching
Changing subjects is its own violation. Come out and make a new motion.

Narrowly construed
Budgets, strategy, and awkward topics do not qualify. Don't shoehorn.

Permitted, never required
A board may always choose to discuss a qualifying topic in public.

Idaho Code § 74-206(2)–(3) · Nelson v. Boundary County, 109 Idaho 205 (Ct. App. 1985)

PART 7

When things go wrong

Penalties, enforcement deadlines, and how to cure a violation

CONSEQUENCES

Actions are void, and fines are personal

$250
Participating in a noncompliant meeting, even unknowingly

$1,500
Knowingly violating the law

$2,500
A knowing violation within 12 months of a prior one

Void: any action — and any deliberation leading to it — at a noncompliant meeting. Maximum fines; paid by the member, not the agency.

Idaho Code § 74-208(1)–(4) · AG Manual, Questions 33, 35, 37

ENFORCEMENT

Who enforces, and how fast they must act

Public enforcers

- County prosecutor for local agencies
- Attorney General for state agencies
- Special prosecutor when commissioners are accused or the prosecutor is disqualified
- Only public enforcers can seek civil penalties

30 days for any person affected to sue to void an action

180 days for any other suit under this law

Private suits: magistrate court, no damages, no fines.

Idaho Code §§ 74-208(5)–(6), 31-2603 · Petersen v. Franklin County, 130 Idaho 176 (1997)

CURING A VIOLATION

Fixing a mistake: 14 days, then 14 more

TRIGGER
The board spots it, or the clerk receives written notice.

→

14 DAYS TO RESPOND
Publicly admit and promise a cure, or deny. Silence counts as denial.

→

14 DAYS TO CURE
Declare void every action taken at or resulting from the meeting.

→

REDO IT RIGHT
Repeat the deliberation or vote at a properly noticed meeting.

Why cure: it bars the $250 penalty, and a self-reported cure also bars the $2,500 repeat penalty. Enforcement is paused while you respond and cure.

Idaho Code § 74-208(7) · AG Manual, Question 36 and "Curing Process" flowchart

PART 8 · WRAP-UP

Six mistakes we see most often

Group texts and reply-alls
Deliberating on pending business by message.

Unnoticed briefings
Work sessions or site visits with a quorum.

Polling through staff
Lining up votes in advance through staff.

Unlabeled action items
Voting on an item not flagged for action.

"Personnel matters"
Executive session with no specific § 74-206 basis.

Drifting or deciding
Switching topics or reaching consensus during executive session.

IAC Chapter 10: Open Meeting Law · AG Manual

PRACTICE ROUND

Test yourself: what should the board do?

A

Before Thursday's meeting, the chair emails every board member asking each to reply with their position on a new fee schedule.

B

Mid-meeting, a member asks to add approval of a contract that arrived yesterday, and wants to vote on it today.

C

In a § 74-206(1)(f) session with counsel about a threatened lawsuit, talk turns to the director's performance.

Answers in speaker notes

KEY TAKEAWAYS

Five things to remember

1. Quorum plus pending business equals a meeting — anywhere, any format.
2. Post notice and a specific agenda, on site and online.
3. Close a meeting only by cited subsection and two-thirds roll call.
4. Every vote happens in open session.
5. Spot a mistake? Call counsel and cure it fast.

When in doubt, open the meeting.

QUESTIONS

Questions and resources

The statute

Idaho Code §§ 74-201 – 74-208
legislature.idaho.gov

AG manual

Open Meeting Law Manual, July 2026
www.ag.idaho.gov

Your counsel

County prosecuting attorney or your board's legal counsel

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