

# The Ohio Open Meetings Act

## Chapter Eight: Duties of a Public Body

### Notes:

<sup>968</sup> R.C. 121.22(C).

<sup>969</sup> R.C. 121.22(A).

<sup>970</sup> R.C. 121.22(C); *State ex rel. Randles v. Hill*, 66 Ohio St.3d 32, 35, 1993-Ohio-204 (locking the doors to the meeting hall, whether or not intentional, is not an excuse for failing to comply with the requirement that meetings be open to the public); *Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. No. 2012-T-0035, 2013-Ohio-881, ¶ 22 (finding that a public body may place limitations on the time, place, and manner of access to its meetings, as long as the restrictions are content neutral and narrowly tailored to serve a significant governmental interest).

<sup>971</sup> *Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. Trumbull No. 2012-T-0035, 2013-Ohio-881, ¶ 24 (“While [the Open Meetings Act] does not state where a public body must hold its public meetings, it has been held that the public body must use a public meeting place.”); 1992 Ohio Op. Att’y Gen. No. 032.

<sup>972</sup> 1992 Ohio Op. Att’y Gen. No. 032; 1944 Ohio Op. Att’y Gen. No. 7038.

<sup>973</sup> *Specht v. Finnegan*, 149 Ohio App.3d 201, 2002-Ohio-4660, ¶¶ 33-35 (6th Dist.).

<sup>974</sup> *Wyse v. Rupp*, 6th Dist. No. F-94-19, 1995 WL 547784 (Sept. 15, 1995) (finding the Ohio Turnpike Commission dealt with the large crowd in a reasonable and impartial manner).

<sup>975</sup> 42 U.S.C. § 12101 (Americans with Disabilities Act of 1990, P.L. §§ 201-202) (providing that remedy for violating this requirement would be under the ADA and does not appear to have any ramifications for the public body under the Open Meetings Act).

<sup>976</sup> *But see State ex rel. Roberts v. Snyder*, 149 Ohio St. 333, 335 (1948) (finding that council was without authority to adopt a conflicting rule where enabling law limited council president’s vote to solely in the event of a tie under statute that preceded enactment of Open Meetings Act).

<sup>977</sup> R.C. 121.22(G).

<sup>978</sup> 2011 Ohio Op. Att’y Gen. No. 038 (providing that secret ballot voting by a public body is antagonistic to the ability of the citizenry to observe the workings of their government and to hold their government representatives accountable). *But see State ex rel. MORE Bratenahl v. Village of Bratenahl*, 8th Dist. Cuyahoga No. 105281, 2017-Ohio-8484, ¶ 19 (finding that a vote by handwritten ballot, in open session, where the ballots identified each councilmember’s name with their respective vote and were made public record, was not a secret vote as explained in 2011 Ohio Op. Att’y Gen. No. 038).

<sup>979</sup> *But see, State ex rel. MORE Bratenahl v. Village of Bratenahl*, 2018-Ohio-497, ¶ 20 (holding handwritten ballots were not “secret” and did not violate Open Meetings Act because they were maintained as a public record and cast in open session).

<sup>980</sup> R.C. 121.22(C); *Wyse v. Rupp*, 6th Dist. No. F-94-19, 1995 WL 547784 (Sept. 15, 1995); *Community Concerned Citizens, Inc. v. Union Twp. Bd. of Zoning Appeals*, 66 Ohio St.3d 452 (1993); 1992 Ohio Op. Att’y Gen. No. 032; *see also*, 2007 Ohio Op. Att’y Gen. No. 019; *Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. No. 2012-T-0035, 2013-Ohio-881, ¶¶ 15, 19-29 (While the Public Records Act permits a requester to remain anonymous when making a public records request, the Open Meetings Act does not have a similar anonymity requirement. As a result, a public body can require attendees at meetings to disclose their identities by signing a sign-in sheet as long as the practice is content-neutral and narrowly tailored to serve a significant governmental interest.).

<sup>981</sup> *Manogg v. Stickle*, 5th Dist. No. 97CA00104, 1998 WL 516311 (Apr. 8, 1998).

<sup>982</sup> *Black v. Mecca Twp. Bd. of Trustees*, 91 Ohio App.3d 351, 356 (11th Dist. 1993) (holding that R.C. 121.22 does not require that a public body provide the public with an opportunity to comment at its meetings, but if public participation is permitted, it is subject to the protections of the First and Fourteenth Amendments); *Forman v. Blaser*, 3d Dist. No. 13-87-12, 1988 WL 87146 (Aug. 8, 1988) (R.C. 121.22 guarantees the right to observe a meeting, but not necessarily the right to be heard); *Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. No. 2012-T-0035, 2013-Ohio-881, ¶¶ 19-29.

<sup>983</sup> *Froehlich v. Ohio State Med. Bd.*, 10th Dist. No. 15AP-666, 2016-Ohio-1035, ¶¶ 25-27 (no violation of Open Meetings Act where disruptive person is removed); *Forman v. Blaser*, 3d Dist. No. 13-87-12, 1988 WL 87146 (Aug. 8, 1988) (“When an audience becomes so uncontrollable that the public body cannot deliberate, it would seem that the audience waives its right to, or is estopped from claiming a right under the Sunshine Law to continue to observe the proceedings.”); *see also Jones v. Heyman*, 888 F.2d 1328, 1333 (11th Cir. 1989) (holding no violation of 1st and 14th Amendments when disruptive person was removed from a public meeting).

<sup>984</sup> *McVey v. Carthage Twp. Trustees*, 4th Dist. No. 04CA44, 2005-Ohio-2869, ¶¶ 14-15 (finding trustees violated R.C. 121.22 by banning videotaping).

<sup>985</sup> *Kline v. Davis*, 4th Dist. Nos. 00CA32, 01CA13, 2001-Ohio-2625 (finding blanket prohibition on recording a public meeting not permissible); 1988 Ohio Op. Att’y Gen. No. 087 (opining that trustees have authority to adopt reasonable rules for use of recording equipment at their meetings); *see also Mahajan v. State Med. Bd. of Ohio*, 10th Dist. Nos. 11AP-421, 11AP-422, 2011-Ohio-6728 (holding that, when rule allowed board to designate reasonable location for placement of recording equipment, requiring appellant’s court reporter to move to the back of the room was reasonable, given the need to transact board business).

<sup>986</sup> R.C. 121.22(A); *Mansfield City Council v. Richland Cty. Council AFL-CIO*, 5th Dist. No. 03CA55, 2003 WL 23652878 (Dec. 24, 2003) (reaching a consensus to take no action on a pending matter, as reflected by members’ comments, is impermissible during an executive session).

<sup>987</sup> R.C. 121.22(F); *Katterhenrich v. Fed. Hocking Local School Dist. Bd. of Edn.*, 121 Ohio App.3d 579, 587 (4th Dist. 1997) (“Typically, one would expect regular meetings to be scheduled well in advance ....”).

<sup>988</sup> *State ex rel. Patrick Bros. v. Putnam Cty. Bd. of Commrs.*, 3d Dist. No. 12-13-05, 2014-Ohio-2717, ¶ 24; *Doran v. Northmont Bd. of Edn.*, 147 Ohio App.3d 268, 272 (2d Dist. 2002).

<sup>989</sup> 1988 Ohio Op. Att’y Gen. No. 029; *Katterhenrich v. Fed. Hocking Local School Dist. Bd. of Edn.*, 121 Ohio App.3d 579, 587 (4th Dist. 1997).

<sup>990</sup> R.C. 121.22(F); *see also Wyse v. Rupp*, 6th Dist. No. F-94-19, 1995 WL 547784 (Sept. 15, 1995) (finding a public body must specifically identify the time at which a public meeting will commence).

<sup>991</sup> *State ex rel. Fairfield Leader v. Ricketts*, 56 Ohio St.3d 97, 100 (1990) (“The council either meets in a regular session or it does not, and any session that is not regular is special.”); 1988 Ohio Op. Att’y Gen. No. 029 (opining that, “[w]hile the term ‘special meeting’ is not defined in R.C. 121.22, its use in context indicates that a reference to all meetings other than ‘regular’ meetings was intended”).

<sup>992</sup> R.C. 121.22(F); *see also Doran v. Northmont Bd. of Edn.*, 147 Ohio App.3d 268, 272-73 (2d Dist. 2002) (holding that a board violated R.C. 121.22(F) by failing to establish, by rule, method to provide reasonable notice to the public of time, place, and purpose of special meetings); *State ex rel. Stiller v. Columbiana Exempted Village. School Dist. Bd. of Edn.*, 74 Ohio St.3d 113, 119-20 (1995) (holding that policy adopted pursuant to R.C. 121.22(F) that required notice of “specific or general purposes” of special meeting was not violated when general notice was given that nonrenewal of contract would be discussed, even though ancillary matters were also discussed).

<sup>993</sup> R.C. 121.22(F); 1988 Ohio Op. Att’y Gen. No. 029.

<sup>994</sup> *Keystone Committee v. Switzerland of Ohio School Dist. Bd. of Edn.*, 7th Dist. No. 15 MO 0011, 2016-Ohio-4663, ¶¶ 35-36, 40-43 (finding special meeting notice of “2015-2016 school year” was not specific enough to meeting’s purpose to discuss a school closure, and large crowds did not prove notice was sufficient); *State ex rel. Young v. Lebanon City School Dist. Bd. of Edn.*, 12th Dist. No. CA2012-02-013, 2013-Ohio-1111 (finding school board failed to comply with special meeting notice requirements when notice indicated that the purpose of the special meeting was “community information,” but during the meeting the board entered executive session “to discuss negotiations with public employees