

OPEN MEETING LAW: COMPLIANCE AND CURE

All meetings of the Bonneville Joint School District No. 93 Board of Trustees will be open to the public and all persons shall be permitted to attend any meeting except those Executive Sessions provided for pursuant to Idaho Code § 74-206. The District recognizes that the formation of public policy is public business and shall be conducted in public. The District further recognizes the goal of the Open Meeting Law is compliance, and that in order to achieve compliance, the District must have the ability to correct any errors.

Violations

1. If an action, or any deliberation or decision-making that leads to an action, occurs at any meeting which fails to comply with the guidelines set forth in Idaho's Open Meeting laws, such action shall be null and void.
2. The Board may self-recognize an open meeting violation or receive written notice to the Clerk of the Board of an alleged violation. A civil complaint filed and served upon the Board may serve as written notice.

Penalties

1. An individual Board member who conducts or participates in a meeting that violates the Open Meeting Law is subject to a civil penalty of up to two hundred fifty dollars (\$250.00).
2. A knowing violation is subject to a civil penalty of up to one thousand five hundred dollars (\$1,500.00).
3. A second knowing violation within a twelve-month time period is subject to a subsequent civil penalty of up to two thousand five hundred dollars (\$2,500).

Recognition and Acknowledgement of a Violation

A violation may be cured by the Board upon:

1. The Board's self-recognition of a violation; or
1. Receipt by the Clerk of a written notice of an alleged violation.
 - a. A civil complaint filed and served upon the Board may be substituted for other forms of written notice.
 - b. Upon notice of an alleged open meeting violation, the Board shall have fourteen (14) days to respond publicly and either

- 1) Acknowledge the open meeting violation and state an intent to cure the violation; or
 - 2) State that Board has determined that no violation has occurred and that no cure is necessary.
- c. Failure to respond shall be treated as a denial of any violation.

Cure of a Violation

1. Following the Board's acknowledgment of a violation, the Board shall have fourteen (14) days to cure the violation by declaring as void all actions taken at or resulting from the meeting in violation of the Open Meeting Law.
2. Within fourteen (14) days of acknowledging the violation, and stating an intent to cure, the Board shall cure the violation by holding a properly noticed meeting to address the voided actions.
3. The Board may then address the voided actions and lawfully take the desired action pursuant to the Open Meeting Law.
4. Curing the violation in this manner bars any civil penalty for an unintentional violation.
5. No private action shall result in an assessment of a civil penalty against any member of the Board of Trustees.
6. There shall be no private right of action for damages arising out of any violation of the provisions of the Open Meeting statutes.

Filing Suit

1. Any suit brought for the purpose of having an action or decision declared null and void must be commenced within thirty (30) days of the decision or action that results from an open meeting violation.
2. Actions taken in violation of the Open Meeting Law **are not** void unless they are challenged within thirty (30) days.

Ratification

If an action **is not** challenged within thirty (30) days, it is the best practice to cure any known violation by holding a meeting pursuant to the law to ratify a decision or action that has resulted from an open meeting violation.

DEFINITIONS:

Decision: any determination, action, vote, or final disposition upon a motion, proposal, resolution, order, ordinance, or measure on which a vote of a governing body is required, at any meeting at which a quorum is present but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held pursuant to Idaho Code, Title 74, Chapter 2.

Adopted: 03-09-2005 Reviewed: 09-12-2012 Revised: 07-17-2015
09-13-2017

Cross Reference: Board Meetings #1500

Legal Reference: Idaho Code § 74-201 Formation of Public Policy at Open Meetings
Idaho Code § 74-202 Open Public Meetings-Definitions
Idaho Code § 74-203 Governing Bodies—Requirement for Open Public Meetings
Idaho Code § 74-204 Notice of Meetings -Agendas
Idaho Code § 74-205 Written Minutes of Meetings
Idaho Code § 74-206 Executive sessions – When authorized
Idaho Code § 74-208 Violations
City of McCall v. Buxton, 146 Idaho 656 (2009)