
Authorities Budget Office Policy Guidance



No. 25-01

Date Issued: March 5, 2025

Supersedes: New

Subject: Freedom of Information Law and Open Meetings Law

Statutory Citation: Section 2829 of Public Authorities Law

Provisions: Section 2829 of Public Authorities Law (PAL) provides that all state and local authorities defined under Article 1, Title 1, Section 2 of PAL, and their subsidiaries (collectively “Authorities”), are subject to Freedom of Information Law and Open Meetings Law (Article 6 and 7 of Public Officers Law, respectively). This section also provides that all state and local authorities, and their subsidiaries, to the extent practicable, are required to stream all open meetings and public hearings on their website in real-time and post the video recordings on their website within five business days of the meeting or public hearing. The video recordings must be maintained on their website for no less than five years.

Authorities Budget Office Policy Guidance: Authorities are to be transparent and accountable, and act in the public interest consistent with their intended purpose. In doing so, Authorities must be responsive and responsible to the public, and perform their public business in an open and public manner to allow for stakeholders to be fully aware of, and able to observe, the performance and decision-making of the board and officials. This includes allowing the public to attend and listen to their deliberations and decisions, and to access the Authority’s records.

As advances in technology have made it feasible for Authorities to maintain their websites, the Authorities Budget Office (ABO) expects Authorities to take advantage of this opportunity to make information about their activities and decision-making available and accessible on their websites, including keeping them up-to-date and user-friendly. As such, Authorities should stream their open meetings and public hearings in real-time and post the video recordings to their website, along with any records that would allow the public to stay informed about the Authority’s activities and decisions before and after they occur.

Access to agency records: The Freedom of Information Law (FOIL) affirms the public has the right to know how Authorities operate, including the rights of access to records that reflect Authority decisions and policies. All records of the Authority, except those that may be withheld under the exemptions listed in Section 87 (2) of Public Officers Law (POL), must be made available to the public upon request. Authorities must adopt procedures for how records may be accessed by the public, including:

- Times and places such records are available;

- Persons from whom such records may be obtained (Records Access Officer); and
- Associated fees to copy the requested records. Note that an agency with the ability to scan or otherwise transmit records electronically (e.g., email) is expected to do so.

When a member of the public requests a record, Authorities have five business days to grant or deny access, either in whole or in part. The Authority may redact information withheld under the exemptions, but shall provide the rest of the record. If more time is needed, a written acknowledgement of the receipt of the FOIL request, which includes an approximate date by which the Authority will grant or deny the request, must be sent. If the Authority determines to grant a request in whole or in part, and if circumstances prevent disclosure within 20 business days, the Authority must state in writing both the reason for the inability to do so and a date certain when the request will be granted. More information, including model rules, is available on the Committee on Open Government's website ([Freedom of Information Law | Open Government](#)).

Access to meetings and public hearings: A meeting is a gathering of a public body for the purpose of conducting public business, whether in person or by videoconferencing, and includes Authority regular, committee, and subcommittee meetings. The intent of Open Meetings Law (OML) is to promote openness and transparency when Authorities conduct public business. As such, all Authority meetings shall be open to the public, except in limited instances when it is appropriate to enter into executive session to discuss specific permitted matters. See [ABO Policy Guidance 09-01: Appropriate Use of Executive Session](#).

Ensuring openness and transparency of board meetings: The public must be given enough notice and information about scheduled board meetings to allow them to stay reasonably up-to-date on the Authority's activities, and to know what matters the board expects to address at a meeting. Authorities are to ensure the following documents are provided and requirements are met:

- **Public Notice:** Authorities should post a public notice at least 72 hours in advance of a board meeting. The notice should include the date, time, and location of the meeting, locations where videoconferencing will take place if applicable, and the URL address to view the meeting on the live-streaming platform.
- **Agenda:** It is expected the Authority post an agenda at least one week in advance of the meeting. Posting the agenda increases transparency by allowing the public to know in advance what matters will be reviewed, discussed and scheduled for a vote.
- **Board Materials:** A board book or board packet should be provided to members before a meeting and made available to the public. It should include information relevant to the items on the agenda needed for board members to attend board meetings prepared and ready to participate.
 - Common materials include, but are not limited to, the agenda, minutes from the previous meeting, financial statements, management/committee

reports, compliance items, updates on legal issues, and background information of discussion items.

- Any proposed resolution, law, rule, regulation, policy, or any amendment thereto, scheduled to be the subject of discussion by a public body during an open meeting shall be made available, upon request, and to the extent practicable at least 24 hours prior to the meeting during which the records will be discussed.
- Meeting Conduct/Access: The board should ensure all reasonable efforts are made to hold meetings in a facility which can adequately accommodate members of the public, including the needs of physically handicapped persons. Meetings should be scheduled during a reasonable time and should be open to be photographed, broadcast, and webcast so long as it is not disruptive. Meetings should be directed by the board Chair, or the vice Chair if the Chair is unavailable.
- Video Conferencing: There are two ways to use videoconferencing to conduct meetings. One is the “pre-Covid” way, in which there are multiple public locations from which members of the Authority may attend that are connected by videoconferencing. The second way permits a member to participate in a meeting via videoconferencing from a private location due to “extraordinary circumstances” such as a disability which would otherwise prevent the member from physically attending. The use of videoconferencing must comply with the requirements of Section 103-a of POL; See [ABO Meetings - Best Practices Guide for Public Authorities](#).
- Quorum and Voting: A quorum of board members of the Authority must be in attendance before a meeting can begin. If videoconferencing is used, enough board members must be present in the same physical location or locations where the public can attend in order to fulfill the quorum requirements. Members may not attend by teleconference, as voting members and their surroundings must be visible to those in attendance. For this reason, other means of conducting a meeting, such as email or mail, are also impermissible.
 - Votes may only be held during a meeting at which a quorum is present, either physically or via videoconference. Notwithstanding any provision of law to the contrary, a vote which is not held during a meeting where a quorum is present shall have no effect.
- Executive Session: Since OML requires that public business be conducted where the public can observe, executive sessions shall only be used for the specific, limited purposes listed under Section 105 of POL. Before entering an executive session, the members must take a vote in an open meeting. The motion to enter executive session must provide enough details about the purpose of the meeting and subject matter that will be discussed to make it clear that an executive session is appropriate. See [ABO Policy Guidance 09-01: Appropriate Use of Executive Session](#).

- Meeting Minutes: Minutes shall be taken at all open meetings and are required to include a record or summary of all motions, proposals, resolutions, and any other matter formally voted on, including the results of the vote. Minutes are to be taken at executive session of any action that is taken by formal vote and are required to include a record or summary of the final determination of the action, and the date and results of the vote. The minutes should note which if any members attended remotely via videoconferencing.
 - Minutes of regular open meetings are to be made available and posted within two weeks from the date of the meeting. Unabridged video recordings, unabridged audio recordings, or unabridged written transcripts may be deemed to be meeting minutes for purposes of this requirement.
 - Minutes of executive session are to be made available within one week from the date of the executive session.
 - While OML does not require these minutes be approved within the required time periods, posting in draft form is acceptable.
 - It is expected that meeting minutes be maintained on the Authority's website for at least two years following the date on which the meeting was held.