

"get together" between a state commission and state legislators or the Governor would be subject to all of the requirements of the meetings law (notice, minutes, etc.), if a quorum of the commission discusses matters that are within the authority granted to that body. It does not matter that the discussion is "informal" or that no decisions are made; it is still a "meeting" for purposes of the Public Meetings Law.

Whether a governing body's training sessions are subject to the Public Meetings Law will depend on whether any substantive issues are discussed. For example, a governing body may have a training on improving personal interaction among its members. If that training is carefully structured to avoid any discussion of official business, and no such discussion occurs, the training would not be subject to the meetings law. This is a very sensitive area, however, and public bodies should contact their legal counsel for advice.

c. Electronic Communication

The Public Meetings Law expressly recognizes that meetings may be conducted by telephonic conference calls or "other electronic communication." Such meetings are subject to the Public Meetings Law. ORS 192.670(1).

Notice and opportunity for public access must be provided when meetings are conducted by electronic means. For nonexecutive session meetings held by telephone or other electronic means of communication, the public must be provided at least one place where its members may "listen" to the meeting by speakers or other devices. ORS 192.670(2). Special accommodations may be necessary to ensure accessibility for persons with disabilities. See discussion below of Accessibility to Persons with Disabilities. The media must be provided access to such facilities when executive sessions are conducted electronically, unless the executive sessions are held under ORS 192.660(2)(d) (to deliberate with persons designated by the governing body to carry on labor negotiations) or ORS 332.061 (hearing concerning expulsion of minor student from public elementary or secondary school, or pertaining to examination of student's confidential medical records).

State and local governing bodies generally recognize that the Public Meetings Law imposes public access requirements on official telephonic meetings. Governing bodies also must comply with those requirements when their members use more sophisticated means of electronic

communication in lieu of face-to-face official meetings. For example, communications between and among a quorum of members of a governing body convening on electronically-linked personal computers are subject to the Public Meetings Law if the communications constitute a decision or deliberation toward a decision for which a quorum is required, or the gathering of information on which to deliberate.

At least one local government in Oregon has provided home computers to its city councilors to be used as an electronic message system. To avoid inadvertent electronic "meetings," the Gresham City Council has adopted a policy barring a quorum of its members from using the system at any one time. The computer system also is programmed to prevent that occurrence.

2. Statutorily Exempt Public Meetings

The definition of "meeting" under ORS 192.610(5) expressly excludes an on-site inspection of any project or program or a gathering of any national, regional or state association to which the public body or its members belong.

ORS 192.690(1) and (2) exempt the following proceedings from the Public Meetings Law requirements:

- meetings of the state lawyers assistance committee or personal and practice management assistance committees operating under ORS 9.568;
- meetings of medical peer review committees under ORS 441.055;
- meetings of county multidisciplinary child abuse teams that review child abuse cases under ORS 418.747;
- meetings of child fatality review teams that review child fatality cases under ORS 418.785;
- any judicial proceedings;²²
- deliberations of the Board of Parole or the Psychiatric Security Review Board;

²² For purposes of this exemption from the requirements of the Public Meetings Law, judicial proceedings including meetings of the State Professional Review Board of the Oregon State Bar. Letter of Advice dated August 13, 1997, to Patrick Hearn, Executive Director, Government Ethics Commission (OP-1997-4) (see App F-6).

PUBLIC MEETINGS LAW APPENDIX A

Answers to Questions Commonly Asked

About the Public Meetings Law

Q. May a three-member governing body meet with staff in carrying out its administrative functions, without complying with all the notice and other requirements of the Public Meetings Law?

A. If the governing body is meeting in order to obtain information on which it later will deliberate, or to deliberate or decide on substantive matters, it must comply with the notice, public attendance and recordkeeping requirements of the Public Meetings Law.

Q. As a member of a three-member governing body, must I notify the press and public and arrange for their attendance every time I drop into a colleague's office or make a telephone call to another member?

A. Yes, if you discuss the business of the governing body. The law requires that the public have access to any meeting of a quorum of a governing body of a public body when the governing body meets to gather information on which it will later deliberate, or to deliberate or make a decision on any matter of policy or administration.

Q. Is a "retreat" of a governing body subject to the Public Meetings Law?

A. The answer depends on the matters discussed at the retreat. If the retreat is confined, for instance, to general principles of decision-making or personal interaction, the Public Meetings Law would not apply. However, if at the retreat the governing body deliberates toward or makes a decision on official business, or gathers information on which it later will deliberate, the meetings law applies. In addition, any retreat or training session that includes deliberations must be held inside the governing body's jurisdiction.

Q. What about a "retreat" for other employees and administrators of the public body attended by members of the governing body?

A. Such a "retreat" can be organized to avoid the meeting of a quorum of the governing body for the purpose of gathering information

or deliberating toward decisions on matters within their responsibility, in which case the meetings law would not apply. However, it also is very easy for information gathering or policy deliberations by members of the governing body to occur, in violation of the Public Meetings Law.

Q. May a quorum of members of a governing body participate in a "community retreat" sponsored by a chamber of commerce?

A. Yes, so long as they avoid getting together as a group for any deliberations.

Q. What is a quorum?

A. The Public Meetings Law does not define quorum. It may be defined by city charter, rules of order or some other source. For public bodies, absent other controlling authority, a quorum is a majority. ORS 174.130. Even if a group decides to operate by consensus, the meetings law will apply if a quorum of the group's members are required to make a decision or recommendation. See also discussion of Quorum in Appendix C.

Q. Is an on-site inspection subject to the Public Meetings Law?

A. No. On-site inspections are not "meetings" subject to the meetings law.

Q. Does the Public Meetings Law apply to a chamber of commerce?

A. No.

Q. Is a people's utility district board subject to the Public Meetings Law?

A. Yes.

Q. How about an electric cooperative?

A. No. That is a private body.

Q. How about a nonprofit corporation that receives all of its funds from the state or local government?

A. No, unless it is formally acting as an advisory body to a public body or is required by contract to open its meetings. If the corporation is the "functional equivalent" of a public body, it may also be subject to the Public Meetings Law. See discussion of Private Bodies.