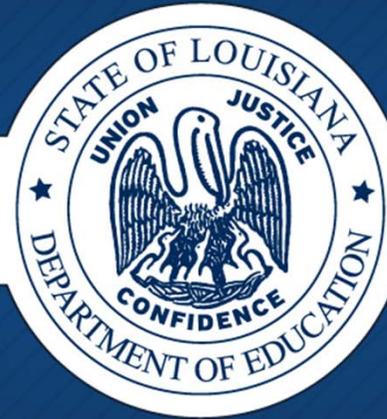


LOUISIANA



DEPARTMENT OF EDUCATION



Public Records and Open Meetings Law

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Agenda

- Open Meetings Law
- Public Records Law
 - Procurement
- Questions/Concerns

Open Meetings Law



- Charter school boards conduct their business in board meetings.
 - It is recommended that charter school boards meet at least once a month.
- In conducting their meetings, charter school boards must follow Louisiana's Open Meetings Law.

What counts as a board meeting?



- A charter school board “meeting” is a convening of a “quorum” of the board to deliberate on, act on, or to receive information on, a matter over which the charter school board has supervision, control, jurisdiction, or advisory power.
- A “quorum” is a simple majority of the members of the board.
 - But you must physically be present to count. I.e. You are not really there if you’re Skyping!

What counts as a board meeting, cont.



- Be aware that any meeting of a quorum of board members at which the board members discuss charter school business is a “meeting” under Louisiana’s Open Meetings Law and is in violation of that law if not done in accordance with its provisions
 - i.e. if a bunch of you gather for a Happy Hour and discuss school matters, technically you are in violation of the Open Meetings Law, so be aware!

Do board meetings need to be public?



YES!

How can you ensure that board meetings are public in a compliant way?



- Charter school boards are required to give written public notice of the schedule of their regular meetings at the beginning of each calendar year.
- The notice has to include the dates, times, and places that the meetings scheduled for the year will occur.



- **Action Needed**

- Determine meeting schedule no later than January
- Distribute schedule to OPO, school, and community
 - Ideas for distribution include posting to school bulletin boards, websites, and the local paper

How can you ensure that board meetings are public in a compliant way?



- Charter school boards are required to give public notice of each meeting during the year at least 24 hours in advance of meeting
 - Should also provide published agenda
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- **Action Needed**
 - Distribute information concerning the time, date, place, and agenda of the meeting no later than 24 hours before the meeting
 - Distribute schedule and agenda to OPO, school, and community
 - Ideas for distribution include posting to school bulletin boards, websites, and the local paper

What information from the board meeting needs to be documented and made public?



Pretty much all
of it!

What information from the board meeting needs to be documented and made public?



Charter school boards are required to keep written minutes of open meetings, which shall include:

- the date, time and place of the meeting,
- the members of the board recorded as either present or absent,
- the substance of all matters decided,
- and at the request of any member of the board, a record, by individual member, of any votes taken,
- and any other information that the board requests be included or reflected in the minutes.

What information from the board meeting needs to be documented and made public?



- Charter school boards are required to keep written minutes of open meetings



- **Action Needed**

- Very soon, as part of our restructured monitoring procedures, we will be requiring Boards to submit their minutes on an annual basis
- Good practice to make the minutes publically accessible on an ongoing basis

What rights do the public have?



- At board meetings, public attendees have the right to:
 - Make public comment before each vote
 - Record proceedings

What about confidential information that needs to be discussed at a board meeting?



- The board has the right to discuss confidential information in closed executive sessions
- Confidential issues include:
 - the character, professional competence, or physical or mental health of a person
 - » The person must be given 24 hours notice
 - » The person can require the discussion of these topics occur in public

What about confidential information that needs to be discussed at a board meeting?



- Other confidential items that might warrant an executive session include:
 - Strategy for collective bargaining or litigation
 - matters pertaining to security
 - investigations regarding allegations of misconduct
 - extraordinary emergencies (natural disasters and the like)
 - matters pertaining to individual students or the parents or guardians of such students regarding problems of the student, parent or guardian
 - The student, parent or guardian can require that the discussion occur in public.

What happens if we don't follow the Open Meetings Law?



Any action taken in violation of the Open Meetings Law is voidable by a court if a suit to void the action is commenced within 60 days of the action.

The Louisiana's Attorney General, any local district attorney, or any person may institute suit.

A plaintiff can petition the court for:

- a writ of mandamus;
- injunctive relief;
- declaratory judgment;
- judgment voiding the action;
- court costs;
- attorneys' fees; and
- civil penalties. Civil penalties are not to exceed \$100 per violation.

What are public records and what is the law?



- A public record is any type of documentation in hard copy or electronic form that is used or retained for use in public business
 - Yes, even emails!
- The Public Records Act was passed to ensure that the activities of public entities are subject to public scrutiny.
 - Requires the custodian of public records to present any public record to any person of the age of majority who requests to see it

What rights do the public have?



- In general, the public has the right to:
 - Request, obtain, inspect, and/or copy public records
 - Be provided “reasonable comfort and facility” while viewing a public document
 - This means simply provide a place for him or her to sit and look at the document
 - Not be questioned about why they want access to public records
 - » “...the custodian shall make no inquiry of any person who applies for a public record..” except to inquire as to his or her age and identification

What rights does the custodian have?



- You can require that the inspection of public records occur during regular business hours
- You are entitled to keep an eye on anyone inspecting public records to ensure no alterations take place
- You can charge a “reasonable fee” for copies of public records.
 - As a rule of thumb, state agencies charge 25 cents per page for such copies.
 - However, no fee can be charged for simply examining a public record.
 - When a person asks for copies of public records, the agency has a “reasonable time” to make the copies and get them to the person making the request.

What about confidential items?



- If any document contains information which is not public record, the custodian must separate out the nonpublic information and make the remainder of the public record available for examination.
- If an entire item is confidential, the records custodian has three business days to notify the requesting party in writing if the record, or certain information in it, is confidential and provide legal basis for that decision.

Where is the line between privacy and confidentiality?



- Some specific examples of documents in which courts or the Attorney General have determined that public employees have a reasonable expectation of privacy are:
 - Personnel Evaluations
 - Employee Grievance Forms
 - PRAXIS Scores
- But there is not really a bright-line rule and no one-size-fits-all answer for dealing with issues pertaining to privacy
 - When in doubt, consult your legal counsel for advice!!

What about FERPA?



- FERPA is another exception to the Louisiana Public Records Act. FERPA is a federal law which creates four basic rights for students and their parents
 - (1) the right to receive annual notification from the school of their FERPA rights (<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html>);
 - (2) the right to inspect the student's education records;
 - (3) the right to seek correction of a student's education records; and
 - (4) the right to privacy in education records, such as:
 - » the student's name,
 - » the name of the student's parent or other family member,
 - » the address of the student or the student's family,
 - » a personal identifier such as a social security number or other student number,
 - » a list of personal characteristics that would make the student's identity easily traceable,
 - » any other information that would make the student's identity easily traceable



- FERPA allows school officials of the school where the student is enrolled, and of the school district, to access the student's education records, if they have a legitimate educational interest in the records
- A school cannot disclose personally identifiable student information from education records to third parties, unless that school has received the prior written consent of the parent (of the student if the student is 18 years old or older) to do so

Other important things to note



- If a record is not immediately available because it is in use, the records custodian must certify in writing that the record is unavailable because it is in active use by the charter school and must fix a date and time, within three business days, when the document will be made available for inspection
- Once a public record is created, a public agency must keep it for a minimum of three years
 - However, it is recommended that charter schools keep public records for a minimum of five years
- A public agency is only required to provide documents which it has already created in the normal course of its business



- State Funds
 - Charter schools are exempt under from all state laws regarding public bid, except for “public bids for the erection, construction, alteration, improvement, or repair of a public facility or immovable property
 - Charter schools are allowed to purchase products and services off of state contracts when expending state funds or federal grant funds
 - » Information about goods and services available on state contracts can be obtained from the Division of Administration’s Office of State Purchasing at 225- 342-8010



<\$100K (in a year)

- solicit pricing from a minimum of three vendors
- purchase should be made from the responsible vendor who offers the needed products or services at the lowest price
- documentation of the price quotes and the basis for the vendor selection must be kept with the procurement file

>\$100K

- charter school should advertise for bids
 - should be published in the official journal of the state and in a newspaper of general circulation in the parish where the charter school is located
 - notice should be published so as to give vendors a reasonable time to respond before bids are opened – 10 days is probably a good rule of thumb
 - The advertisement should include
 - » an identification of the public entity,
 - » a general description of the supplies or services needed,
 - » where and how specifications can be obtained,
 - » the date and time of bid opening

Questions?

