

# Open Meeting Policy

Status: In Progress

## Policy Information

---

<b>Policy Number</b>	
<b>Implementation Date</b>	11/6/2017
<b>Revision Date</b>	--
<b>Next Review Date</b>	--
<b>Adopted Date</b>	--
<b>Responsible Office</b>	Legal Counsel
<b>Procedure</b>	--
<b>References</b>	<p><b>Associated Press v. Crofts, 2004 MT 120, 120 (2004)</b> (<a href="http://caselaw.findlaw.com/mt-supreme-court/1058667.html">http://caselaw.findlaw.com/mt-supreme-court/1058667.html</a>)</p> <p><b>Montana Code Annotated § 2-3-203</b> (<a href="http://leg.mt.gov/bills/mca/2/3/2-3-203.htm">http://leg.mt.gov/bills/mca/2/3/2-3-203.htm</a>)</p> <p><b>Montana State Constitution Article II, Section 9</b> (<a href="http://leg.mt.gov/bills/mca/Constitution/II/9.htm">http://leg.mt.gov/bills/mca/Constitution/II/9.htm</a>)</p> <p><b>Montana State Constitution, Article II, Section 10</b> (<a href="http://leg.mt.gov/bills/mca/Constitution/II/10.htm">http://leg.mt.gov/bills/mca/Constitution/II/10.htm</a>)</p> <p><b>Montana State Constitution, Article II, Section 8</b> (<a href="http://leg.mt.gov/bills/mca/Constitution/II/8.htm">http://leg.mt.gov/bills/mca/Constitution/II/8.htm</a>)</p> <p><b>Moe v. Butte Silver-Bow County, 2016 MT 103 (Mont. 2016)</b> (<a href="http://law.justia.com/cases/montana/supreme-court/2016/da-15-0400.html">http://law.justia.com/cases/montana/supreme-court/2016/da-15-0400.html</a>)</p>

## Purpose

---

The meetings of the University of Montana's (UM) official committees and boards, as a public entity, are open to the public. This includes reasonable notice to the public of topics to be discussed as well as the opportunity to comment. This is, however, balanced with the important constitutionally guaranteed right to individual privacy.

## Policy

---

All meetings of official UM committees and boards shall be open to the public, except when the topic of these meetings relates to a matter of individual privacy or the meeting falls within one of the exceptions under Montana Code Annotated § 2-3-203 and relevant caselaw. Meetings of groups that are not official UM committees or boards, such as staff meetings or working groups, do not need to be open. Ministerial or administrative fact gathering meetings do not need to be open.

Considerations relevant to whether a meeting qualifies and must be open are: (1) whether the committee's members are public employee's acting in their official capacity; (2) whether the meetings are paid for with public funds; (3) the frequency of the meetings; (4) whether the committee deliberates rather than simply gathers facts and reports; (5) whether the deliberations concern matters of policy decisions rather than merely ministerial or administrative functions; (6) whether the committee's members have executive authority and experience; and (7) the result of the meetings. These considerations are not exhaustive, and each factor might not necessarily be present in every instance of a meeting that must be open to the public. Many internal departmental or staff meetings, for example, do not meet the requirements of the open meeting policy and Montana open meeting laws.

Presumptions of openness are overcome whenever the closure of a meeting is necessary to preserve the privacy interest of any person who either is the subject of the meeting or whose legitimate privacy interests will be otherwise infringed should the meeting be open to the public. In these cases, the interests of individual privacy must clearly exceed the merit of public disclosure, and the determination should be made by the chairperson of the committee.

The individual whose privacy interests are at stake must be given the opportunity to waive the right to privacy; if the privacy interest is waived, the meeting must be open. If multiple individuals' privacy interests are at stake, the chairperson will consider each interest individually before deciding whether to close the meeting. When someone's privacy interests would clearly be infringed by the openness of a particular meeting, that meeting, or the relevant portion of that meeting, shall be closed by the chairperson.

When it has been determined that a meeting should be open, reasonable notice (of at least 24 hours, but preferably at least 32) must be given to the public, an agenda must be made easily accessible (at least 24 hours) in advance, and minutes must be kept and posted upon approval of the committee. The committee may not discuss issues not posted to the published agenda; if it does, opportunity to comment must be provided to the public at that meeting.

The public must be given a meaningful opportunity to comment on the topics of the meeting. This may occur during a designated time within the meeting, or through another reasonable mechanism such as online feedback, but the public should be made aware of the means of public comment when notice of the meeting is given. Minutes should be taken at public meetings and approved at the following meeting of that group. The minutes should include the time, date, and place of the meeting; a list of those in attendance; the substance of all matters proposed, discussed, or decided, including reports, data, and other findings considered; and a record, if not inappropriate, of votes. Minutes should be available for public inspection on the relevant committee's website.

To assist, a flowchart is attached to this policy; however, it should only be used to simplify and supplement this policy.

## Definitions

### Meeting

The convening of a quorum of the constituent membership of a public agency or association, whether in person or electronically, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power. Mont. Code. Ann. § 2-3-202.

### Quorum

A majority of the entire body when members are acting as a group (as opposed to acting as individuals). 42 Mont. Att'y Gen. Op. No. 51, 200-201 (1998).

### Ministerial Act

An action performed pursuant to legal authority which requires no exercise of judgment. *Moe v. Butte Silver-Bow County*, 383 Mont. 297, 306 (Mont. 2016).

## Attachments

- Open Meeting Flow Chart.docx

## Routing Information

Responsible Office/Administrator

Recipient Name	E-Mail (umontana-alias)	Approver	Approval Date	Comment
----------------	-------------------------	----------	---------------	---------