



Rule 84 Meeting
Tuesday, July 23, 2024 1:00 PM
Younes North Conference Center
707 Talmadge St
Kearney, NE 68845

1. ESU Coordinating Council Information
Board President
2. Call to Order
Board President
3. Roll Call
Board President
4. Agenda
President
 - 4.1. Rule 84 Meeting
President
5. Public Comment
Board President
6. Adjournment
Board President

**BYLAWS
OF
EDUCATIONAL SERVICES UNIT COORDINATING COUNCIL**

Article I. Authority and Purpose.

Section 1. Introduction. Pursuant to NEB. REV. STAT. § 79-1245, the Educational Services Unit Coordinating Council (hereinafter referred to as "the Council") is a political subdivision of the State of Nebraska.

Section 2. Purpose of Bylaws. The purpose of these Bylaws is to provide operational guidance to the Council and to clarify the Council's relationship with other education entities.

Section 3. Authority. The powers and duties of the Council are set forth in NEB. REV. STAT. §§ 79-1245 to 79-1249 as it may be amended from time to time. These Bylaws shall in no way limit or alter the authority and duties of the Council as provided by law.

Section 4. Mission. The mission of the Council is to provide the most cost-effective educational support for students, teachers, and school districts in each Nebraska educational service unit by facilitating statewide coordination of educational services and strategic planning.

Article II. Membership and Meetings.

Section 1. Number of Members. The Council shall initially have seventeen (17) members, one (1) administrator from each of the seventeen (17) Nebraska educational service units. The Council may involve liaisons from other educational entities and State agencies in its meetings and activities. If, at any time, the number of educational service units changes, the number of members on the Council shall also change so the number of members on the Council remains the same number as the number of existing Nebraska educational service units.

Section 2. Member Responsibilities. Each member is responsible for attending meetings and faithfully and diligently executing any responsibilities or tasks delegated by the Council to carry out its statutory powers and duties.

Section 3. Regular Meetings. In May of each year, the Council shall approve meeting dates, times and locations for the next 12 months. The Council shall meet at least once annually and schedule the number of regular meetings

that it deems appropriate for each 12-month period. The Council shall endeavor to set meetings on dates and at locations that accommodate the schedule of its members and of the State's education community. Regular meetings shall be noticed and held pursuant to the Nebraska Open Meetings Act.

Section 4. Special Meetings. Special meetings of the Council may be called by the President of the Council or by a majority of Council members for any lawful reason. Special meetings shall be noticed and held pursuant to the Nebraska Open Meetings Act.

Section 5. Quorum. No action may be taken on a matter at a Council meeting unless a majority of Council members are present at the meeting either in person or via teleconference pursuant to NEB. REV. STAT. § 84-1411 as may be amended from time to time.

Section 6. Voting. If a quorum is present, the affirmative vote of the majority of Council members present at the meeting and entitled to vote on the subject matter shall be considered an act of the Council unless of a greater vote is required by law. All votes shall be by roll call vote and recorded in the minutes of the Council meeting.

Section 7. Recessed Meeting. A majority of Council members present at any meeting may vote to recess the meeting to a different date, time and/or location. Any business which might have been transacted at the original meeting may be transacted at the rescheduled meeting if a quorum is present at such recessed meeting.

Section 8. Commissioner of Education. The Commissioner of Education shall be invited to attend or to send representatives from the Nebraska Department of Education in his or her stead, to each regular meeting of the Council.

Article III. Officers.

Section 1. Number and Qualification. The initial officers of the Council shall consist of a President, a President-Elect, a Past-President, a Secretary, a Treasurer and such other officers as may be deemed necessary by the Council. Together these officers shall comprise the Executive Committee of the Council.

Section 2. Election and Tenure. The officers of the Council shall be elected at the first regular meeting of the Council. Election may be by either voice vote or written ballot and shall require a majority vote of all members present at the meeting at which the election occurs. Thereafter the officers shall be elected bi-annually at the September meeting or as soon thereafter as convenient. Each officer shall hold office for two years or until his or her successor is duly elected and qualified, unless his or her service is terminated sooner because of death, resignation, removal, disqualification or otherwise.

Section 3. Removal. Any officer of the Council, either elected or appointed, may be removed by a vote of the majority of the Council. Election or appointment of an officer or agent shall not of itself create a contractual relationship between the officer and the Council or give the officer any contract rights.

Section 4. Vacancies. A vacancy in an office due to death, resignation, removal, disqualification or otherwise shall be filled by a vote of the Council in the same manner as provided in Section 2 above, at the Council's next regular meeting after the vacancy becomes known to the Council.

Section 5. Duties and Authority of Officers.

- (a) President. The President shall be the principal executive officer of Council. The President shall cause all meetings of the Council to be lawfully noticed and prepare an agenda for each meeting of the Council in accordance with state law. When present, the President shall preside at all meetings of the Council. The President may sign, with the Secretary or any other officer of the agency authorized by the Council, checks, contracts or other instruments which the Council has authorized to be executed, except in cases where the signing and execution thereof is expressly delegated by the Council or these Bylaws to some other officer or agent of the Council or required by law to be otherwise signed or executed. The President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Council from time to time.
- (b) President-Elect. In the absence of the President or in the event of his or her death, inability, or refusal to act, the President-Elect shall perform the duties of the President. When so acting the President-Elect, shall have all the powers of, and be subject to all the

restrictions upon, the President. The President-Elect shall perform such other duties as from time to time may be assigned by the President or by the Council.

- (c) Past-President. In the absence of the President or the President-Elect or in the event of his or her death, inability, or refusal to act, the Past-President shall perform the duties of the President. When so acting the Past-President, shall have all the powers of, and be subject to all the restrictions upon, the President. The Past-President shall perform such other duties as from time to time may be assigned by the President or by the Council.
- (d) Secretary. The Secretary shall prepare minutes of the meetings of the Council, serve as the custodian of the Council's records, keep a current roster of the physical and e-mail addresses of all Council members, and perform all duties incident to the office of Secretary, and perform such other duties as from time to time may be assigned by the President or by the Council.
- (e) Treasurer. The Treasurer shall have charge and custody of and be responsible for, all funds and securities of the Council, receive receipts for all securities and monies due and payable to the Council from any source whatsoever and give such receipts to the Council, deposit all such monies in the name of the Council in such banks, trust companies, or in other depositories designated by the Council, and perform all the duties incident to the office of Treasurer and perform such other duties as from time to time may be assigned by the President or by the Council. If required by the Council, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Council shall determine.
- (f) Executive Committee. The Executive Committee shall meet as needed to prepare for Council meetings, to formulate recommendations for the Council, and for such other reasons as deemed appropriate by the President or as directed by the Council.

Article IV. Administration.

Section 1. Reimbursement for Expenses. Council members and Council employees shall be entitled to reimbursement for actual expenses incurred in the performance of their duties as allowed by NEB. REV. STAT. § 79-1217 and other laws and applicable regulations as they may be amended from time to time. No request for reimbursement shall be submitted by an individual for an expense which has been paid by an educational service unit, other educational agency, or political subdivision. No charge for mileage shall be allowed when such mileage accrues while using an automobile owned by the State of Nebraska or one of its political subdivisions.

Section 2. Budget. The Council shall annually adopt a budget as required by the Nebraska Budget Act. Fiscal agents shall, pursuant to the agency agreement between the fiscal agent and the ESUCC, segregate funds contributed to a project from other funds maintained by the fiscal agent, either by maintaining a separate account of the Council designated for such a purpose or by maintaining a segregated fund within the budget of the educational service unit serving as fiscal agent. The Council shall require each fiscal agent appointed by the Council to provide to the Council quarterly statements of all activity for each project.

Section 3. Agency Agreements and Fiscal Agents. The Council may enter into agency agreements with individual educational service units or other public or private entities. The purpose of such agreements will be for the Council to delegate to the agent entity the authority and responsibility to oversee particular statewide cooperative projects. The agency agreement shall specify whether the agent entity will also serve as the fiscal agent for the project.

Section 4. Powers. The Council shall have the power to:

- (a) Purchase and/or lease supplies, materials and equipment and enter into a contract with any person, firm, corporation or other entity.
- (b) Accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise from any person or entity, and receive, utilize, and dispose of the same. The nature, amount, and conditions, if any, attendant upon any donation or grant accepted

pursuant to this section shall be detailed in the annual report of Council.

- (c) Employ, compensate, evaluate and discharge staff limited only to those persons necessary to carry out its duties and functions;
- (d) Establish committees as it deems necessary for the purpose of advising the Council on any and all matters pertaining the Council's duties or activities;
- (e) Indemnify or reimburse any person in the same manner as an educational service unit board is authorized to do pursuant to NEB. REV. STAT. § 79-1217 as may be amended from time to time;
- (f) Take any other action authorized, either explicitly or implicitly, by Nebraska law, including any action that may be necessary to perform its duties and functions as provided in these Bylaws.

Section 5. Annual Plan. The Council shall develop a written document outlining the programs, services and other projects which the Council will operate each year ("Annual Plan"). The Council will annually review the Annual Plan and may amend it as the Council deems necessary.

Section 6. Advisory Committees. The Council may solicit input from advisory committees comprised of teachers, administrators, board members, staff development staff, and other individuals. The role of these committees shall be advisory only, and no recommendation or proposal by any advisory committee shall be final until acted upon and adopted by the Council.

Article V. Other Matters.

Section 1. Fiscal Year. The fiscal year of the Council shall begin on ~~July 4~~ ^{September 1} and end on ~~June 30~~ ^{August 31}. (Amended March 3, 2010)

Section 2. Liability Insurance. The Council shall obtain adequate insurance to cover itself, its members and its agents, employees, volunteers, or other persons in performing duties to the Council. Adequate shall mean an amount, if available, which will satisfy the maximum claims that could be made under Nebraska's Political Subdivision Tort Claims Act.

Section 3. Amendment. These Bylaws may be amended from time to time as deemed necessary by a majority of the Council. All such amendments must be in writing, appended to this document and signed by the Council Secretary.

Section 4. Intellectual Property. All rights to any intellectual property (copyright, trademark, patent, etc.) created in connection with any project reflected in the addenda to these Bylaws shall be owned by the Council.

These Bylaws were adopted by the Educational Service Unit Coordinating Council at a meeting lawfully held pursuant to the Nebraska Open Meetings Act this _____ day of July, 2008.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

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Robert Uhing, Administrator
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Michael Ough, Administrator
Educational Service Unit No. 2

Gill Kettelhut
Gill Kettelhut, Administrator
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Jon Fisher
Jon Fisher, Administrator
Educational Service Unit No. 4

Al Schneider
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Educational Service Unit No. 5

Dan Shoemake
Dan Shoemake, Administrator
Educational Service Unit No. 6

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NEBRASKA OPEN MEETINGS ACT

84-1407. Act, how cited. Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

84-1408. Declaration of intent; meetings open to public. It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

84-1409. Terms, defined. For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1) Until January 1, 2025:

(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee or the governing body of a rural or suburban fire protection district, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to timely publish the notice, the public body shall (A) post such notice on its website, if available, and (B) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours.

Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) Beginning January 1, 2025:

(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committees, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(B)(I) Posting to the newspaper's website, if available, and (II) posting to a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper.

(ii) In the case of the governing body of a city of the second class or village, any advisory committee of such governing body, or the governing body of a rural or suburban fire protection district, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper;

(B)(I) Posting to the newspaper's website, if available, and (II) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(C)(III) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted by the public body in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (2)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to publish the notice, the public body shall (A) post such notice on its website, if available, (B) submit a post on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers, and (C) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(3)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (3)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

- (vi) The Educational Service Unit Coordinating Council;
- (vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;
- (viii) A community college board of governors;
- (ix) The Nebraska Brand Committee;
- (x) A local public health department;
- (xi) A metropolitan utilities district;
- (xii) A regional metropolitan transit authority; and
- (xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsections (1) and (2) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of (A) an organization created under the Interlocal Cooperation Act that sells electricity or natural gas, (B) an organization created under the Municipal Cooperative Financing Act, (C) a governing body of a risk management pool and any advisory committee of such governing body, or (D) any advisory committee of any state entity created in response to the Opioid Prevention and Treatment Act, such organization, governing body, or committee may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing.

(4) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(5) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(6) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (5) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(7) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(8)(a) Notwithstanding subsections (3) and (6) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsections (1) and (2) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (5) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(9) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (3)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (3)(b)(i) and (ii) of this section.

84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless

the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

84-1413. Meetings; minutes; roll call vote; secret ballot; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Operative
4/17/24

