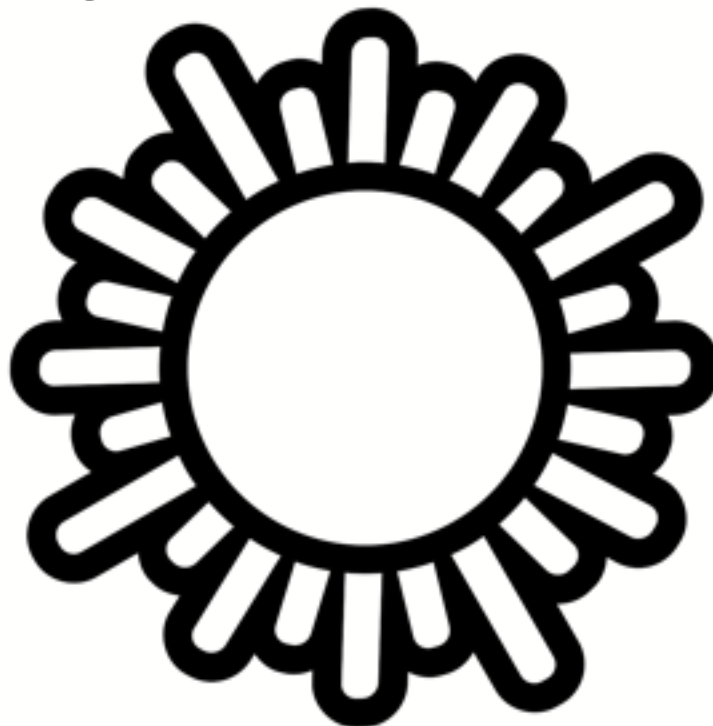


Iowa Open Meetings Training

Sunlight is the best disinfectant!



Gary Taylor *Director, Community and Economic Development*
Luke Seaberg, *Field Specialist, Community and Economic Development*

Agenda

- Open Meetings 101
 - Governmental Bodies
 - Meetings
- Compliance
 - Public Notice
 - Open Session
 - Minutes
- Closed Sessions/Exempt sessions
- Penalties for violation

Open Meetings

- Meetings of governmental bodies shall be:
 - Preceded by public notice
 - Conducted and executed in open session
 - Recorded in minutes
- “Ambiguity in the construction or application of this chapter should be resolved in favor of openness.”
 - Iowa Code Chapter 21.1

Open Meetings

- Meetings of **governmental bodies** shall be:
 - Preceded by public notice
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 - Recorded in minutes

Open Meetings

- **Governmental body** means
 - A board, council, commission or other governing body expressly created by the statutes of this state or executive order.
 - A board, council, commission or other governing body of a political subdivision or tax-supported district in this state.
- County Extension Councils are created by state law and are therefore governmental bodies.
 - Iowa Code 176A.5

Discussion

The Buildingless County Extension Council has created an ad hoc subcommittee of its members to find new space to lease for the county extension office.

Is this subcommittee a “government body”?

What information do you need to make that determination?

Subcommittees

Subcommittees or advisory boards may or may not be considered a “governmental body”.

- Is the advisory board established by statute?
- Does the subcommittee contain a quorum of the larger governmental body?
- Is the subcommittee making decisions (vs. recommendations) that are the responsibility of the body as a whole?

Open Meetings

- **Meetings** of governmental bodies shall be:
 - Preceded by public notice
 - Conducted and executed in open session
 - Recorded in minutes

Meeting

“Meeting” means a:

1. **gathering**
 - a. in person or by electronic means
 - b. formal or informal
2. of a **majority of the members**
3. where there is **deliberation or action** upon any matter within the scope of the governmental body’s **policy-making duties**



Electronic Meetings (21.8)



- Electronic meetings are permissible when meeting in person is *impossible or impractical*.
- State reason in the minutes.
- The public must have access
 - a speaker in a public place
 - a phone number to call in
- A single member of the governmental body may participate remotely without it being considered an electronic meeting.

Discussion

Two members of the Frigid County Extension Council spend a couple months a year in their timeshares in Florida and California. Unfortunately, this coincides with a very busy time of the year for the Council!

Can they both call in for meetings?

What do you need to consider?

Discussion

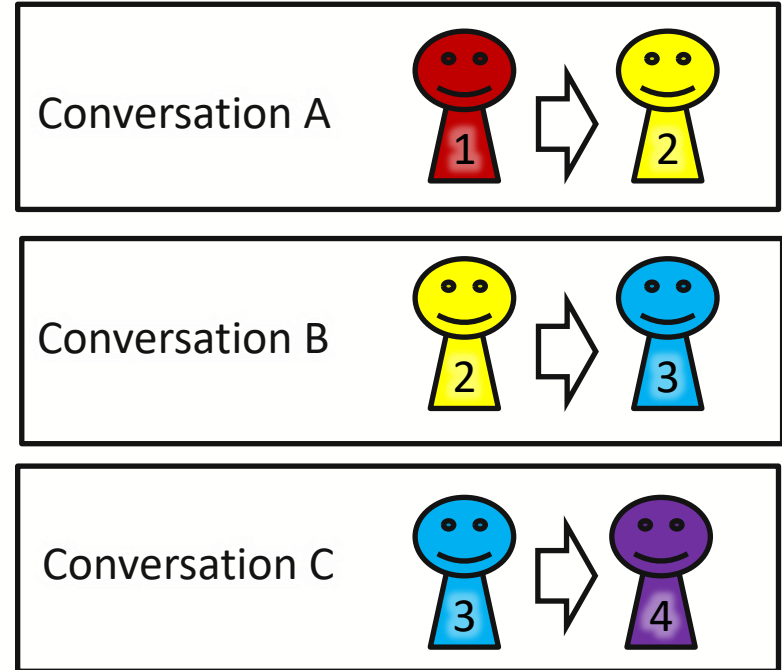
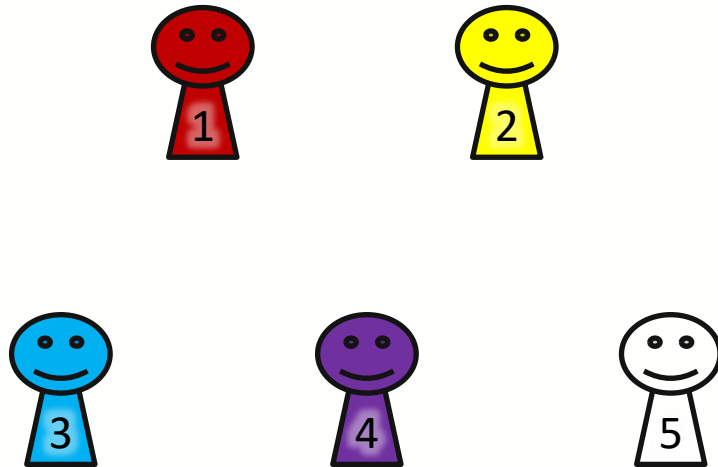
- **Parliamentary procedure:** Do your own rules allow electronic participation?
- **Discussion:** Any member participating electronically must be clearly audible to the public. The member must also be able to hear all discussion and have access to all evidence presented.
- **Voting and minutes:** The vote of any member participating electronically must be made public at the open session and it should be indicated in the minutes that they participated electronically.

Meeting

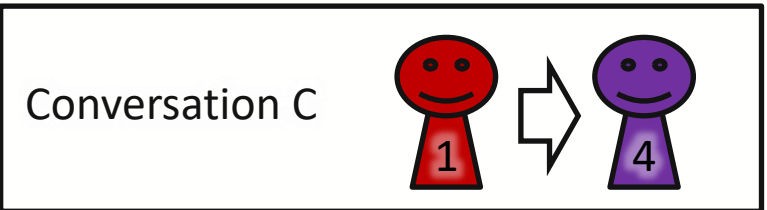
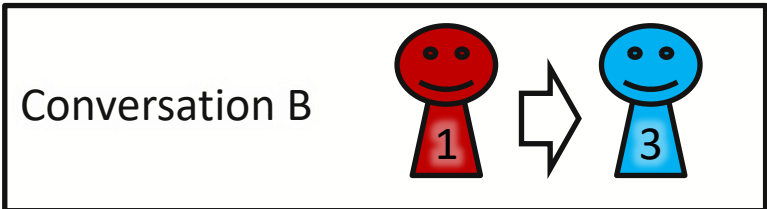
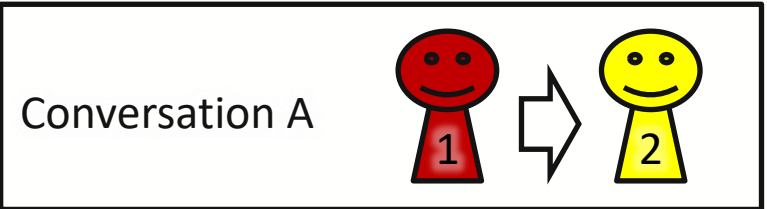
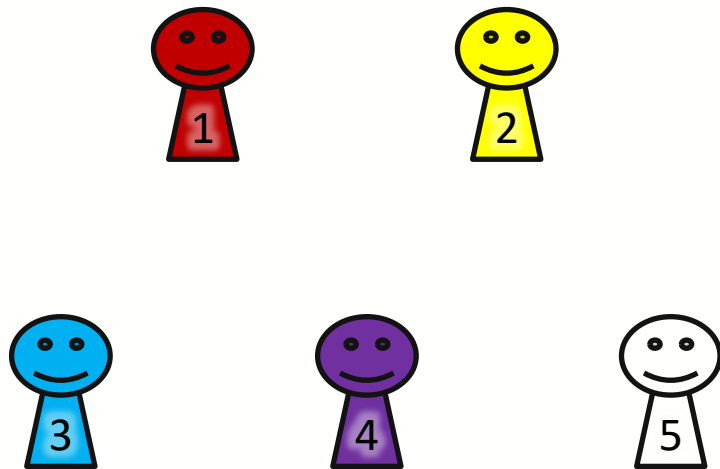
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Serial meeting



Walking Quorum



Discussion

Hutchison v. Shull

2016 - Iowa Supreme Court

Members of a governmental body cannot use an agent or a proxy to get around the law!

Each of the members speaking individually with a third party to avoid discussion in a public meeting (to purposely evade the law) counts as a violation of the law.

Meeting

“Meeting” means a:

1. gathering
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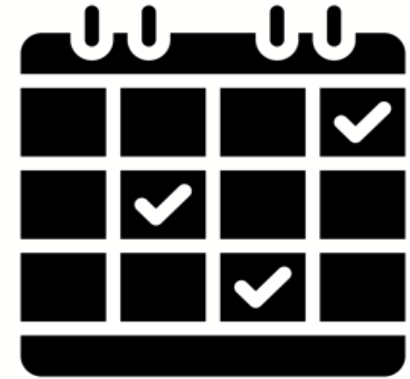
Conversation that is not necessarily a “meeting”



Sports



Entertainment



Administration
or logistics

Email

- Relevant information or administrative matters are fine.
- Save discussion and opinion of any subject for open meetings.
- Electronic communication concerning public business is a public record no matter who owns the device used.
- Texts, Facebook messages, or any other kind of messages are electronic communications too!

Open meetings

- Meetings of governmental bodies shall be:
 - **Preceded by public notice**
 - Conducted and executed in open session
 - Recorded in minutes
- “Ambiguity in the construction or application of this chapter should be resolved in favor of openness.”
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Public Notice

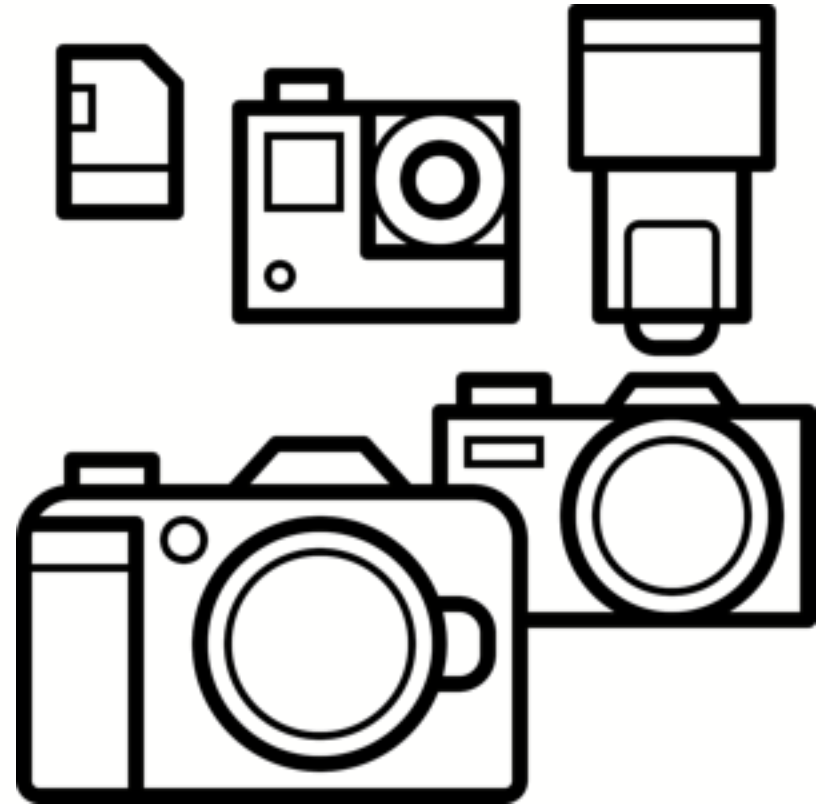
- In a prominent place
- Notice of the meeting must be sent to any news organization or member of the public requesting it.
- Posted at least 24 hours in advance
 - except in a "bona fide emergency"
- This will generally be handled by staff.

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Open Session

- Public should have access to the entirety of the session
 - Special access to the meeting may be granted to persons with disabilities.
- The public may use cameras or recording devices.
- You still may enforce rules of decorum and remove unruly participants



Open meetings

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Minutes

- Minutes should contain at a minimum
 - Date, time, and place
 - Members present and the action taken at any meeting
 - Votes by each member must be noted individually
- Minutes become public record as soon as they are complete

Closed sessions

- Meetings of governmental bodies shall be:
 - Preceded by public notice
 - **Conducted and executed in open session**
 - Recorded in minutes
- This means *all* meetings of a governmental body must be open to the public unless the item for discussion falls *squarely* within one of the twelve reasons for going into closed session enumerated in Iowa Code 21.5.

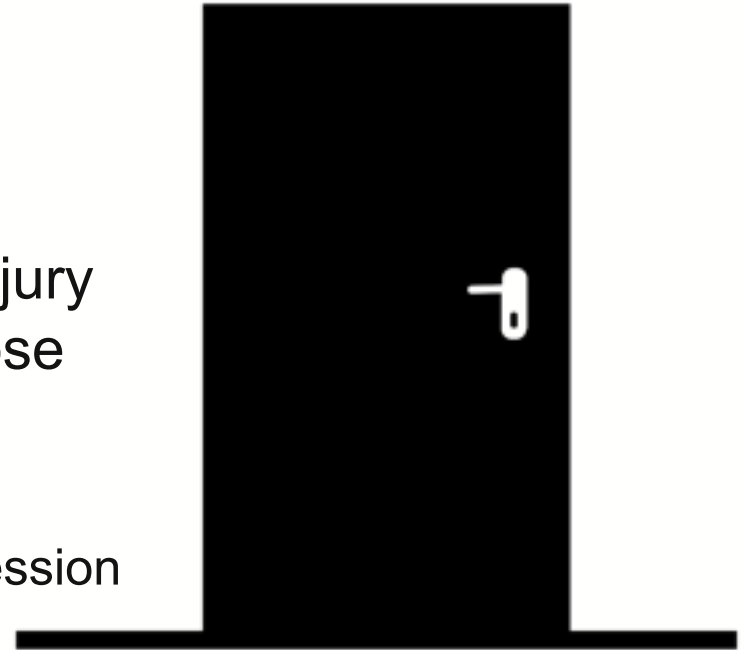
Discussion

- The Hereford County Extension Council is beginning to discuss the issue of cattle judging at next summer's fair. It is proving to be a hotly contested topic. The Board requests that all of the public leave the meeting so they can discuss in private before making a decision.
- Is this appropriate?

Acceptable Closed Sessions

(3 of the 12)

- Strategizing about *pending or imminent* litigation (lawyer must be present)
- Discussing the purchase or sale of *particular* real estate
- To prevent needless or irreparable injury to the reputation of an individual whose professional competency is being evaluated
 - the individual must request a closed session



Requirements for a closed session

- **Pass** a motion by a vote of two-thirds of members
- **State** in the minutes the reason for the closed session
- **Keep** minutes during the closed session with details of all discussions, persons present and actions taken
- **Record** audio or video of the closed session, and retain for at least one year after the date of the meeting
- **Discuss** only what is on the agenda
- **Vote** on the issue discussed in the public session

Exempt session (21.9)

- A meeting of a governmental body to discuss strategy in matters relating to **employment conditions** of employees of the governmental body who are not covered by a collective bargaining agreement under Chapter 20 is exempt from this chapter.
- If it is "exempt from this chapter," as opposed to a closed session, it means none of the other provisions of Chapter 21 apply.

Employment conditions

- Wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training....

Penalties for Violations

- The law provides for civil lawsuits
- Ignorance of the law is not a defense!
- A court can assess damages between \$100 and \$500, order payment of costs and attorney fees, and remove repeat violators from office.
- If a member of a governmental body knowingly participated in a violation, damages increase to \$1,000-\$2,500.

Penalties for Violations

- Damages will not be assessed against officials who
 - Voted against the violation
 - Refused to participate in the violation
 - Engaged in efforts to resist the violation
- You cannot be held liable if you act on advice of:
 - Your attorney
 - An opinion of the Iowa Attorney General
 - Iowa Public Information Board

Thank You