

Open Meetings Held by Public Bodies and Agencies



New Hampshire

Department of Education

Meetings and Records are Public

NH Constitution, Part I, Article 8: “Government...should be open, accessible, accountable and responsive.”

RSA 91-A:1 Preamble: Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies and their accountability to the people.

Proactive Transparency

Why?

- It's the law: The constitution & RSA 91-A
- Provides accountability
- Builds trust and credibility

What does it look like?

- [Professional Standards Board](#)
- [Governor & Executive Council](#)



Who Does This Apply To?

Public Agencies & Public Bodies

RSA 91-A:1-a, V

"Public agency" means any agency, authority, department, or office of the state or of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision.



Public Bodies Include:

- ✓ Boards
- ✓ Commissions
- ✓ Advisory Committee established by the governor by executive order
- ✓ Committees
- ✓ Subcommittees
- ✓ Subordinate bodies
- ✓ Advisory Committees

RSA 91-A:1-a, VI



What is the Home Education Advisory Council?

RSA 193-A:10-b, II.

The duties of the council and the terms of office of the members appointed under subparagraph I(c) shall be prescribed in accordance with rules proposed by the commissioner of education and adopted by the state board of education pursuant to RSA 541-A. Legislative members of the council shall serve a term which is coterminous with their elected office.



193-A:10 Home Education Advisory Council. –

I. There is established the home education advisory council which shall consist of the following members:

(a) **Two members of the house of representatives from the house education committee**, appointed by the speaker of the house of representatives, who shall be **nonvoting members**.

(b) **One member of the senate from the senate education committee**, appointed by the president of the senate, who shall be a **nonvoting member**.

(c) The following individuals who shall be appointed by the commissioner of the department of education from persons named as follows:

- (1) **Six** members nominated by home educator associations organized within New Hampshire.
- (2) **Two** members nominated by the commissioner of the department of education, or designee.
- (3) **One** member nominated by the New Hampshire School Administrators Association.
- (4) **One** member nominated by the New Hampshire School Boards Association.
- (5) **One** member nominated by the New Hampshire Association of School Principals.
- (6) **One** member nominated by the nonpublic school advisory council established by the state board of education pursuant to RSA 21-N:9, II(f).

Meetings of Public Bodies



“Meeting” means the convening of a quorum of the membership of a public body or the majority of the members of such public body if the rules of that body define “quorum” as more than a majority of its members.

Meetings of Public Bodies



- ✓ Public bodies shall not deliberate on matters over which they have supervision, control, jurisdiction, or advisory power outside of a meeting unless exempted from the definition of meeting. RSA 91-A:2-a, I.
- ✓ Public Bodies can only conduct their business through meetings held in accordance with RSA 91-A.

What Constitutes a Meeting?

- Quorum of membership so members may communicate contemporaneously
 - In Person
 - Telephonic* or electronic*
- For purpose of acting on or discussing matters within their powers/authority
- Communications outside a meeting, including, but not limited to, sequential communications among members of a public body, shall not be used to circumvent the spirit and purpose of the Right-to-Know law. RSA 91-A: 2-a, II

What Does NOT Constitute a Meeting?

- Chance or social meeting neither planned or intended for purpose of discussing official business.
 - ❑ CAUTION – if quorum of members discuss matters over which they have control.
- Strategy or negotiations with respect to collective bargaining.
- Consultation with Legal Counsel
- Circulation of draft documents which, when finalized, are intended only to formalize previously deliberated decisions.
 - ❑ CAUTION – E-mail simultaneously or sequentially sent to quorum discussing official business.

Meeting Basics



- ✓ **Public Notice**
- ✓ **Members Physically Present**
- ✓ **Open to the Public**
- ✓ **Minutes**

Meeting Basics



Public Notice

- Post time and place in two locations
 - May include Board's/Commission's website
 - *24 hours* prior to such meeting, excluding Sundays and legal holidays
 - If not posted on website, must state on website where meeting notices are posted

- An agenda is not required

Meeting Basics



Participation

- Quorum of the public body shall be physically present at the location specified in the notice.

- If physical participation not reasonably practical, a member may participate electronically, so long as a quorum is physically present.
 - Must be able to simultaneously hear and speak
 - Reason not practical must be stated in minutes
 - Remote member may vote – Roll call is necessary
 - Must identify persons in the location from which remote member is participating

Meeting Basics



Open to Public

- Open to public – unless authorized to hold nonpublic session
- Public may record – audio, video, etc.
- Openness does not provide public right to speak or participate

Meeting Basics



Minutes

- Minutes include:
 - Names of members/persons appearing
 - Brief description of subject matters discussed
 - All final actions
 - Who made and seconded each motion
- No requirement for verbatim transcription
- Minutes considered permanent record
- Available to public in **5** business days
 - Draft minutes must be produced
 - Final minutes must be posted on the website or post and maintain a notice on the website stating where the minutes may be reviewed and copies requested.
- Public has right to inspect and copy notes, tapes or other sources used for compiling minutes. RSA 91-A:4, II

Non-Public Session

May meet in nonpublic session for an enumerated reason in RSA 91-A:3:

- Dismissal, discipline, hiring of employees
- Adversely affect reputation, but not members of the board
- Pending claims or litigation, or consideration of legal advice
- Sale or lease of property – where public discussions would benefit party whose interests are adverse to general community
- Consideration of matters relating to emergency functions
- Consideration of confidential, commercial or financial information that is exempt from disclosure under RSA 91-A:5, IV in an adjudicative proceeding.

Government Records

Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release.

RSA 91-A:4, IV

RIGHT TO KNOW General Rule:



Citizens have a right to inspect and copy governmental/public records during regular business hours and on regular business premises of the agency.

Conduct a Search

- ✓ Emails
- ✓ Paper files
- ✓ Computer files
- ✓ Databases
- ✓ Voicemails – office and cell phone
- ✓ Text messages
- ✓ Teams



- An agency must conduct a reasonable search of the files the agency and its employees maintains.
- A reasonable search includes a manual or electronic search of any files that are likely to have responsive documents.
- Requests should be interpreted broadly.
- The burden of the scope of the request is not grounds to deny a request.

Questions?