

State Council on Educational Opportunity for  
Military Children  
Annual Meeting  
August 11, 2022 1:30 p.m.

ZOOM: <https://educationne.zoom.us/j/97852374587>

Agenda

1. Call to Order and Introductions – Brian Halstead, Deputy Commissioner of Education and Compact Commissioner
2. Public Comment Period
3. Approve the Minutes for Annual Meeting held August 11, 2021
4. Appoint Juan Román, NDE General Counsel, as the Military Family Education Liaison pursuant to Neb.Rev.Stat. 79-2204
5. Reports by Members on activity or issues occurring in the past twelve months

Attachments: Roster of Members for 2022  
Draft Minutes for August 11, 2021  
MIC3 Guide for Schools/Parents  
Nebraska Open Meetings Act 2022

# STATE COUNCIL ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

## Members – August 2022

(Neb. Rev. Stat. 79-2204(1))

Member	Term	Contact Information
<b>Commissioner of Education</b> Dr. Matthew L. Blomstedt	N/A	<a href="mailto:matt.blomstedt@nebraska.gov">matt.blomstedt@nebraska.gov</a> 402-471-5020 Nebraska Department of Education P.O. Box 94987 Lincoln NE 68509
<b>Compact Commissioner</b> Brian Halstead, Deputy Commissioner of Education	N/A	<a href="mailto:brian.halstead@nebraska.gov">brian.halstead@nebraska.gov</a> 402-471-0732 Nebraska Department of Education P.O. Box 94987 Lincoln NE 68509
<b>Chairperson of the Education Committee of the Legislature (non-voting)</b> Senator Lynne Walz	N/A	<a href="mailto:lwalz@leg.ne.gov">lwalz@leg.ne.gov</a> 402-471-2625 (Capitol) State Capitol P.O. Box 94604 Lincoln NE 68509
<b>School District Representative</b> Dr. Jeff Rippe, Superintendent of Bellevue Public Schools	6/3/2022 to 6/3/2025	<a href="mailto:jeff.rippe@bpsne.net">jeff.rippe@bpsne.net</a> 402-293-4000 Bellevue Public Schools 1600 Hwy 370 Bellevue NE 68005-3591
<b>Military Representative</b> Offutt Air Force Base 55 <sup>th</sup> Wing Support Group Commander -- Col. Jasin R. Cooley	8/1/2021 8/1/2024	<a href="mailto:55MSG.Channel@us.af.mil">55MSG.Channel@us.af.mil</a> <a href="mailto:jasin.cooley@us.af.mil">jasin.cooley@us.af.mil</a> Offutt Air Force Base Omaha, NE
<b>Military Family Education Liaison</b> Juan Román, General Counsel Nebraska Department of Education	N/A	<a href="mailto:juan.roman@nebraska.gov">juan.roman@nebraska.gov</a> 402-310-2517 Nebraska Department of Education P.O. Box 94987 Lincoln, NE 68509-4987

# State Council on Educational Opportunity for Military Children

## Annual Meeting

Wednesday, August 11, 2021 2:30 p.m.

Participants and Guests use Zoom Link for remote participation:  
<https://educationne.zoom.us/j/93651444105>

### Minutes

The Nebraska State Council on Educational Opportunity for Military Children held its annual meeting on August 11, 2021. Publicized notice of the meeting was given by posting notice on the Department's website on the Internet, which gave the date and time of the meeting.

#### **1. CALL TO ORDER AND INTRODUCTIONS**

Brian Halstead, Deputy Commissioner of the Nebraska Department of Education and Council Commissioner of the State Council on Educational Opportunity for Military Children, called the meeting to order at 2:34 p.m.. The following members were present via ZOOM: Brian Halstead, Council Commissioner; Matthew L. Blomstedt, Commissioner of Education; Sara Hulac, Military Family Liaison and NDE Legal Counsel; Dr. Jeff Rippe, Superintendent, Bellevue Public Schools; Nikki Nader, Deputy Director for Installation Support, 55th Mission Support Group, 55 MSG/DD, Offutt Air Force Base serving as Col. Cooley's designee and Nicole Barrett, representative for Nebraska Senator Lynne Walz.

Phil O'Donnell, Military Affairs Liaison, Commission on Military and Veterans Affairs, Alexandria Evers, Government Relations Officer, Nebraska National Guard, as well as Tanya Butler and Roz Johnson, representatives from the Offutt Air Force Base located in Sarpy County, Nebraska, were also in attendance.

Brian Halstead announced the placement of the Open Meetings Act.

#### **3. APPROVAL OF 2020 ANNUAL MEETING MINUTES**

Motion by Dr. Blomstedt, second by Sara Hulac: To approve the minutes of the September 16, 2020, State Council on Educational Opportunity for Military Children meeting.

Voting Yes: Blomstedt, Halstead, Rippe, Hulac and Nader  
The motion passed.

#### 4. REPORTS BY MEMBERS ON ACTIVITY OR ISSUES

**Brian Halstead, Compact Commissioner** and Deputy Commissioner of Nebraska Department of Education, stated that shortly after last year's annual meeting the NDE was contacted by the parents of a student who lived in Colorado and the father was deployed. The student was moved to Nebraska to reside with an aunt and uncle as the Colorado school was not allowing any extracurricular activities due to the pandemic, while the mother remained in Colorado. The Nebraska school district would not let the student participate in basketball due to an NSAA rule that requires a student to reside in the district for 90 days since neither legal parent were residing there. The mother was attempting to get a waiver of that requirement due to hardship. Compact Commissioner Halstead, along with legal counsel, did not believe this factual situation was covered under the Compact. Compact Commissioner Halstead reached out to the National Military Interstate Children's Compact Commission (MIC3) wherein MIC3 agreed with this interpretation. The mother of the student accepted the decision and felt that they had exhausted all of their options.

**Sara Hulac, Military Family Liaison and NDE Legal Counsel**, stated that this past year she is not aware of any other issues than what was described above.

**Dr. Jeff Rippe, Superintendent, Bellevue Public Schools**, reported that the Bellevue Public Schools has not heard of any MIC3 issues this past year. Dr. Rippe expressed his appreciation of everyone's efforts and is looking forward to another great year.

**Nikki Nader, Deputy Director for Installation Support, 55th Mission Support Group, 55 MSG/DD**, stated that they were aware of the situation discussed above and have no other comments and reports no issues. Ms. Nader resonances Dr. Rippe's appreciation of Nebraska being very accommodating and military friendly, and the Offutt Air Force base is very cognizant of same.

**Nicole Barrett, Policy Research Analyst**, indicated that Senator Lynne Walz's office did not receive any indication of issues pertaining to the Compact this past year.

#### 5. NEBRASKA COUNCIL POSITION ON INCLUSION OF GUARD/RESERVE

Compact Commissioner Halstead stated that he served on a Task Force for MIC3 to address the issue of possibly expanding language in the Compact to include Guard and Reserve personnel. Compact Commissioner Halstead provided the report concerning the development of a state position on the National Guard and Reserve. The MIC3 would like each state council to meet and develop a position on the issue and provide a report by the 31<sup>st</sup> of August regarding their state's position on same.

**Phillip O'Donnell, Military Affairs Liaison, State of Nebraska Commission on Military and Veteran Affairs**, has provided information to this Council regarding how this consideration could affect Nebraska.

Mr. O'Donnell introduced himself and thanked the Nebraska Department of Education for its effective, efficient, and student-focused implementation of the State Council on Educational Opportunity for Military Children.

Mr. O'Donnell went on to state that while the State of Nebraska's Commission on Military and Veterans Affairs has not taken an official position regarding the potential expansion of the Compact to include members of the National Guard and Reserve, he would offer that informal conversations with a number of stakeholders suggest that this potential expansion makes sense for the State of Nebraska. Mr. O'Donnell stated that he will continue to field technical and demographic questions.

Mr. O'Donnell personally thanked Compact Commissioner Halstead for his service and leadership on the Military Interstate Children's Compact Commission's National Guard and Reserve Task Force. These efforts matter in strategic basing decisions and in the lives of those who defend our country.

Dr. Rippe stated that he is very supportive of those students associated with National Guard and Reserve families and sees no reason to not include them in the Compact.

Nikki Nader stated that they see no impediments and if decided to include, it would be a welcomed addition.

## **2. PUBLIC COMMENT PERIOD (NONE)**

Compact Commissioner Halstead stated that seeing there were no objections he will offer to the Compact that the Nebraska Council supports National Guard and Reserve members having the same opportunities as active duty military members.

There being no further business to come before the Council, Compact Commissioner Halstead adjourned the meeting at 2:48 p.m.

**\*Support Materials for this meeting are available for inspection in the NDE's Legal Services Office**



Juan Román, NDE General Counsel  
BIOGRAPHY

Mr. Román moved to Omaha, Nebraska at the age of 14 from Quebradilla, Puerto Rico. He attended and graduated from Millard North High School, and enlisted in the Army to be a Food Inspector. Mr. Román graduated from the University of Nebraska at Omaha with a BA in Political Science and was commissioned in the Army Military Intelligence Branch. Mr. Román earned a JD from Creighton University School of Law, and transferred to the Army Judge Advocate General (JAG) Corps. Mr. Román earned a Master in Law (LLM) from The Judge Advocate General Legal Center and School, in Charlottesville, Virginia. Mr. Román practiced Administrative Law, Operational & International Law, Criminal Law, Correctional Law, and had 3 combat deployments to the middle east before retirement in the rank of Major from the Army and was awarded a Bronze Star, 5 Meritorious Service Medals, and 4 Army Commendation Medals, among others.

Since retirement from the Army, Mr. Román has been employed as a Senior Litigator for an insurance defense firm, employed as an immigration attorney for the Department of Homeland Security, and now am serving as the General Counsel for the Nebraska Department of Education.

Mr. Román has two children currently attending public schools in the Elkhorn, NE area.



MILITARY INTERSTATE  
CHILDREN'S COMPACT  
COMMISSION



## GUIDE FOR SCHOOLS/PARENTS

### *What is the Compact?*

The Compact deals with the challenges of military children and their frequent relocations. It allows for uniform treatment as military children transfer between school districts in member states.

*Note: The Compact only applies to public schools.*

### *Students Covered*

- Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders (Title 10)
- Members or veterans who are medically discharged or retired for one year
- Members who die on active duty, for a period of one year after death
- Uniformed members of the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), and United States Public Health Services (USPHS)

### *Students Not Covered*

- Inactive members of the National Guard and Reserves (Not Title 10)
- Members now retired not covered above
- Veterans not covered above
- Other Department of Defense personnel, federal agency civilians and contract employees not defined as active duty
- Members other than the uniformed personnel of NOAA and USPHS

### *May be required during transition*

- Official military orders showing that the military member was assigned to the state (or commuting area) of the state in which the child was enrolled and attended school
- If a military child was residing with a legal guardian and not the military member during the previous enrollment they will have a copy of the family care plan, or proof of guardianship
- A transcript, official or unofficial, or an official letter from the proper school authority which shows record of attendance, academic information, and grade placement of the student
- Documented evidence of immunization against communicable disease.
- Evidence of date of birth.





MILITARY INTERSTATE  
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## GUIDE FOR SCHOOLS/PARENTS

*Some areas that are covered...*



### *Enrollment*

- Educational Records
- Immunizations
- Kindergarten & First Grade Entrance Age

### *Placement and Attendance*

- Course & Educational Program Placement
- Special Education Services
- Placement Flexibility
- Absence Related to Deployment Activities

### *Graduation*

- Waiving courses required for graduation if similar course work has been completed
- Flexibility in accepting state exit or end-of-course exams, national achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state
- Allowing a student to receive a diploma from the sending school instead of the receiving school

Additional resources and information are available at

[www.mic3.net](http://www.mic3.net)



### CONTACT US AT

1776 Avenue of the States | Lexington, KY 40511  
859.244.8133 | [www.mic3.net](http://www.mic3.net) | [mic3Info@csg.org](mailto:mic3Info@csg.org)





# MIC3

MILITARY INTERSTATE  
CHILDREN'S COMPACT  
COMMISSION



Guide for Parents, School Officials  
and Public Administrators

SUCCESSFUL EDUCATIONAL TRANSITIONS

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## What is the Military Interstate Children's Compact Commission?

The Compact deals with the challenges of military children and their frequent relocations. It allows for uniform treatment as military children transfer between school districts in member states. Each member state must adopt the Compact through legislation. Each Compact state will appoint representation to an on-going governing Commission which will enact necessary rules. The Compact calls for the

development of State Councils in each member state. Each State Council may be tasked with development of policy concerning operations and procedures of the Compact within the state.

While the Compact is not exhaustive in its coverage, it does address the key issues encountered by military families: eligibility, enrollment, placement and graduation.

Military families move between postings on a regular basis, and while reassignments can often be a boon for career personnel, they can be difficult for the children of military families. The average military student faces transition challenges more than twice during high school and most military children will attend six to nine different schools in their lives from Kindergarten to 12th grade. The Compact seeks to make transition easier for the children of military families, so they are afforded the same opportunities for educational success as other children, and are not penalized or delayed in achieving their educational goals.

As part of the Compact, the Interstate Commission on Educational Opportunity for Military Children was established (also referred to as the Military Interstate Children's Compact Commission or MIC3). MIC3 continues to work with the Department of Defense, The Council of State Governments, national organizations, and state leaders to implement the Compact and expand knowledge of its existence. Member states are forming their State Councils and informing school districts of the terms of the Compact. The Commission has met annually since 2008 and is working to implement and communicate the requirements of the Compact.





## Specific Impacts on Military Children

### TRANSFER OF RECORDS

Official transcripts for military affiliated children often come from other states or overseas schools. Children are placed incorrectly because some schools refuse to accept hand-carried copies until the official version arrives. Because of the possible time lapse between entry into school and the arrival of school records, this process jeopardizes proper placement for all students and, in particular, those involved in Special Education, Gifted Education, English as a Second Language, and Advanced Placement Courses.

### COURSE SEQUENCING

States have varying prerequisite course requirements that can result in preventing students' academic advancement, repeating content or eliminating students from Honors or Advanced Placement courses.

### GRADUATION REQUIREMENTS

Graduation requirements vary from state to state. In some states, specific courses are required for graduation. The graduation of military students who transfer during their junior or senior year may be jeopardized if they are unable, due to state/local policies or scheduling constraints, to enroll in the necessary coursework.

### EXCLUSION FROM EXTRA-CURRICULAR ACTIVITIES

Students who enroll in school after auditions, tryouts, elections and membership recruitments are often eliminated from activities that promote socialization and connectedness to their new school community. Often their skills and talents are not recognized or developed or are placed on "hold" because they are seen as transient or having arrived "too late." Organizations such as the National Honor Society permit local entrance requirements that can eliminate students even when they have been members in their previous school.

### REDUNDANT OR MISSED ENTRANCE/EXIT TESTING

Children who move frequently can be hindered for missing state mandated tests required to enter or exit various levels of the educational system. Tests are often specific to the state and therefore, entrance/exit tests taken in another state are not recognized.

### KINDERGARTEN AND FIRST GRADE ENTRANCE AGE VARIANCES

Children enrolled in Kindergarten in one state may not qualify by age when transferred during the year to another state. Children who have completed Kindergarten in another state are sometimes denied entry into first grade if they do not meet the age requirement.

### POWER OF CUSTODIAL PARENTS WHILE PARENTS ARE DEPLOYED

Due to circumstances created by military deployment, there are times when children are placed in the care of designated guardians. Legislation is needed to protect the children of these families so that they may continue to attend their school or relocate to the neighborhood school of their newly appointed guardian.

This booklet is designed to help parents, families, guardians, school officials and public officials understand the Compact and navigate issues that may arise when dealing with a child from a military family.

There may be slight variations between the model Compact language and the version adopted into your state's statute.



## GRADUATION

**Waiver Requirements:** Specific required courses shall be waived if similar course work has been satisfactorily completed. If a waiver is denied, the LEA shall provide an alternative means of acquiring required coursework so the child may graduate on time.

## What Parents, Families and Guardians Should Know

### STUDENTS COVERED UNDER THE COMPACT

*Children of the following:*

- Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders (Title 10)
- Members or veterans who are medically discharged or retired for one year
- Members who die on active duty, for a period of one year after death.
- Uniformed members of the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), and United States Public Health Services (USPHS)

### STUDENTS NOT COVERED UNDER THE COMPACT

*Children of the following:*

- Inactive members of the National Guard and Reserves (Not Title 10)
- Members now retired not covered above
- Veterans not covered above
- Other Department of Defense personnel, federal agency civilians and contract employees not defined as active duty
- Members other than the uniformed personnel of NOAA and USPHS

## Educational and Enrollment Records

### UNOFFICIAL OR "HAND-CARRIED" EDUCATION RECORDS

- Custodian of Records sends unofficial records to parents.
- School shall enroll and appropriately place student pending validation of official records.

### OFFICIAL EDUCATION RECORDS/TRANSCRIPTS

- Receiving state shall request student's official education records from sending state. Sending state's school will furnish official education records within ten (10) days or reasonably determined time promulgated by the Interstate Commission.
- Immunization: student is given thirty (30) calendar days from the date of enrollment.
- For a series of immunizations, initial vaccinations must be obtained within thirty (30) calendar days.

### KINDERGARTEN AND FIRST GRADE ENTRANCE AGE

- The student shall be allowed to continue their enrollment at grade level in the receiving state, commensurate with their grade level (including Kindergarten) from a local education agency (LEA) in the sending state, at the time of transition, regardless of age. In the case of a Kindergarten student, the student must have been enrolled and attended class in the sending state in order to assure continued attendance in Kindergarten in the receiving state. A student that has satisfactorily completed the prerequisite grade level at the LEA in the sending state, shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age.

# RESPONSIBILITIES OF SENDING AND RECEIVING SCHOOLS

## STATES SHALL ACCEPT:

- Exit or End-of-Course exams, National Norm-Referenced Achievement Test, Alternative Testing.
- If the above alternatives cannot be accommodated then the sending and receiving LEA shall ensure the receipt of a diploma from the sending LEA, if the student meets the graduation requirements of the sending LEA.

## TRANSFERRING BEGINNING OR DURING SENIOR YEAR:

- Should a military student transferring at the beginning or during their Senior year be ineligible to graduate from the receiving LEA after all alternatives have been considered, the sending and receiving LEA shall ensure receipt of a diploma from the sending LEA, if the student meets the graduation requirements of the sending LEA.
- If one of the states in question is not a member of the Compact, the member state shall use best efforts to facilitate the on-time graduation in accordance with the Waiver Requirements and Exit Exams.

## RECEIVING STATE »

The state to which a child of a military family is sent, brought, or caused to be sent or brought

## SENDING STATE »

The state from which a child of a military family is sent, brought, or caused to be sent or brought

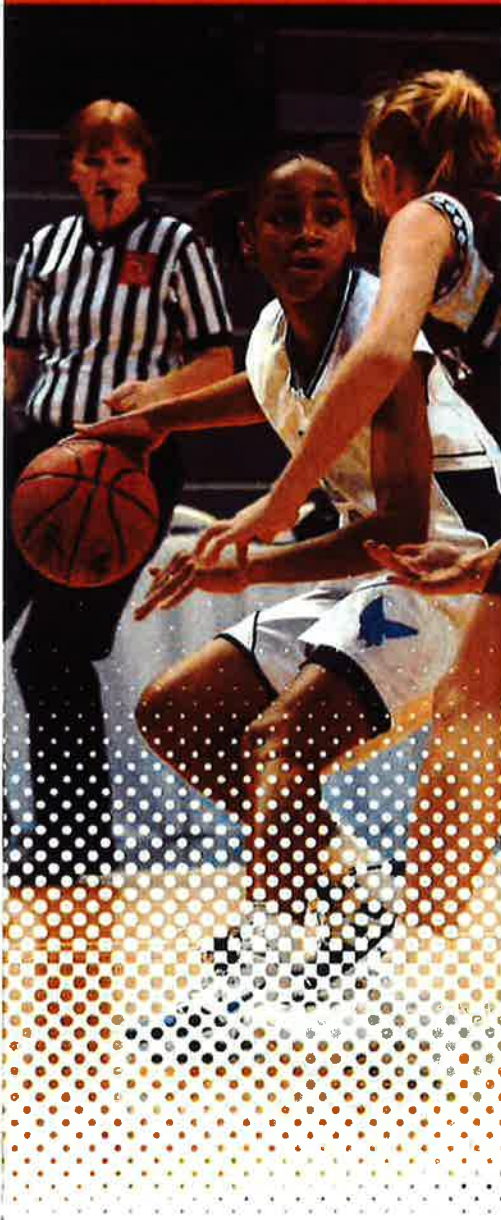


## Data the School Should Expect the Military Child/Family to be Able to Provide Upon Transfer

- Official military orders showing that the military member was assigned to the state (or commuting area) of the state in which the child was previously duly enrolled and attended school.
- If a military child was residing with a legal guardian and not the military member during the previous enrollment they will have a copy of the family care plan, or proof of guardianship, as specified under the Interstate Compact, or any information sufficient for the receiving district to establish eligibility under the Compact.
- Evidence of date of birth.
- An official letter or a transcript, official or unofficial, from the proper school authority which shows record of attendance, academic information, and grade placement of the student.
- Documented evidence of immunization against communicable disease.

“What I find challenging about being a military child is losing friendships and not having my father around most of the time. What I love about being a military child is being able to experience different places and cultures, meet interesting people, and get to know different ways of life.” – Jennifer

*The average child in a military family will move six to nine times during a school career. That's three times more frequently than non-military families.*



## Placement and Attendance

### COURSE PLACEMENT

Receiving school shall honor placement based on student's previous enrollment and/or educational assessments. The receiving school is not barred from performing subsequent evaluations to ensure appropriate placement and continued enrollment.

- Comply with Section 504 and Title II of the Americans with Disabilities Act.
- Shall make reasonable accommodations and modifications of incoming students with disabilities.
- Receiving school is not barred from performing subsequent evaluations to ensure appropriate placement.

### EDUCATIONAL PROGRAM PLACEMENT

Receiving school shall honor placement based on current educational assessments.

Receiving school is not barred from performing subsequent evaluations to ensure appropriate placement.

### PLACEMENT FLEXIBILITY

LEA officials shall have flexibility in waiving course/program prerequisites.

### ABSENCE AS RELATED TO DEPLOYMENT ACTIVITIES

The child shall be granted additional excused absences at the discretion of LEA superintendent.

### SPECIAL EDUCATION SERVICES

- Comply with IDEA and provide comparable services based on his/her current IEP.

## Enrollment and Eligibility

- Special power of attorney or relative with guardianship can enroll a child.
- LEA shall not charge local tuition when a transitioning military child resides in a jurisdiction other than that of the custodial parent.
- Transitioning military children may continue to attend the school in which they were enrolled.
- Transitioning military children shall have the opportunity to participate in extracurricular activities, if qualified, regardless of application deadlines.

*"Every man and woman that serves this country in the armed forces is undoubtedly strong, brave and heroic; however, the family members, specifically the children of these heroes are just as strong and are forced to fight a war of their own; one that comes from inside. I know that when my dad leaves I struggle with him not being by me and keeping me safe. I count the days and hours, write postcards but the war inside me does not end, I am a military child, I am a soldier" –Nevin*

## Public Sector Impact

### STATE COUNCIL

With adoption of the Compact, each state is required to develop a State Council to coordinate a state's participation and compliance among its agencies of government, local education agencies and military installations. While each member state may determine the membership of its own State Council, its membership must

include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, a representative from a military installation, a representative from the legislative, and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate.

### MILITARY FAMILY EDUCATION LIAISON

The State Council shall appoint, or designate, a military family education liaison to assist military families and the state in facilitating the implementation of this Compact.

## National Coordination

### INTERSTATE COMMISSION

The governing body of the Interstate Compact is currently composed of representatives from all 50 states and the District of Columbia, as well as various ex-officio members representing impacted stakeholder groups. The Interstate Commission, also known as the Military Interstate Children's Compact Commission (MIC3), provides general oversight of the Compact, creates and enforces rules governing the Compact's operation and promotes training and compliance with the Compact's requirements. Each state has one vote, voting privileges reside with the State Commissioner or their formal approved delegate. The Commission maintains an Executive Committee and four standing committees: Rules, Finance, Compliance, and Public Relations and Training. Rather than states operating under this Compact without any national coordination, the Interstate Compact and Commission provide the vehicle for solving interstate issues and disputes. The Commission also provides for a national staff that handles the administrative, logistical, public affairs, legal, legislative, and training functions.

### RULEMAKING

The Interstate Commission drafted and enforces rules for the operation of the Compact. While the Interstate Compact mechanism provides the skeletal structure of the agreement, the rules are the muscles or actuators of the contract. The Compact

is basic in its scope and intent, therefore compelling the rules, and the rulemaking process to be dynamic in its ability to respond to changing issues, without rewriting the Compact at every turn. However, a rule may be voided should a majority of member state legislatures revoke the rule (check and balance).

### ENFORCEMENT

The Interstate Commission has a responsibility to ensure that the Interstate Compact and the governing rules are applied and upheld by all member states and their local school districts. Unfortunately, not all issues can be resolved at the local and state level. The enforcement provisions of the Interstate Compact allow for the National Commission Office to intercede and mediate such issues and assist the states in finding equitable

solutions, if possible. The contractual nature of the Compact requires all parties to the agreement (the member states) to abide by the commitments that have been made to each other when the Compact was enacted by each state. The philosophy behind the enforcement clauses of the Compact is to use the least amount of coercion necessary to bring about compliance. Most of the time this can be accomplished through technical assistance and training or through alternative dispute resolution processes such as mediation and arbitration, which are provided as alternatives under the Compact. While recourse to the legal process can be used as a last resort, experience has shown that this is seldom necessary. Questions of interpretation should be sent to the Executive Director through the State Commissioner.





MILITARY INTERSTATE CHILDREN'S COMPACT COMMISSION  
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[www.mic3.net](http://www.mic3.net) |  

Through the Interstate Compact, MIC3 addresses key educational transition issues encountered by children of military families.





**84-1407. Act, how cited.**

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

Source: Laws 2004, LB 821, § 34.

**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.

Source: Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

**Annotations**

Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).

The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. *Marks v. Judicial Nominating Comm.*, 236 Neb. 429, 461 N.W.2d 551 (1990).

The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. *Grein v. Board of Education of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984).

Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

A county board of equalization is a public body whose meetings shall be open to the public. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**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.

**Source:** Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2; Laws 2021, LB83, § 11; Laws 2022, LB922, § 12.

**Operative Date: July 21, 2022**

### Annotations

A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).

A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. *Nixon v. Madison Co. Ag. Soc'y*, 217 Neb. 37, 348 N.W.2d 119 (1984).

Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by

section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

Although the Open Meetings Act does not define "subcommittee," a subcommittee is generally defined as a group within a committee to which the committee may refer business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

The Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. By excluding nonquorum subgroups from the definition of a public body, the Legislature has balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

As an administrative agency of the county, a county board of equalization is a public body. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

The electors of a township at their annual meeting are a public body under the Open Meetings Act. *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb. App. 656, 735 N.W.2d 399 (2007).

The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

Informational sessions in which the governmental body hears reports are briefings. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

**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.

**Source:** Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

### Annotations

There is no absolute discovery privilege for communications that occur during a closed session. *State ex rel. Upper Republican NRD v. District Judges*, 273 Neb. 148, 728 N.W.2d 275 (2007).

If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).

The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. *Grein v. Board of Education*, 216 Neb. 158, 343 N.W.2d 718 (1984).

Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).

Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to

purchase real estate should be made should take place in an open meeting. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).

Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. *Meyer v. Board of Regents*, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

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

(1)(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, 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 or village. 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.

(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)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(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 subsection (1) 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 an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization 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. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) 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.

(4) 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.

(5) 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 (4) 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.

(6) 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.



(7)(a) Notwithstanding subsections (2) and (5) 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 subsection (1) 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 (4) 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.

(8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(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 (2)(b)(i) and (2)(b)(ii) of this section.

**Source:** Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12; Laws 2022, LB742, § 1; Laws 2022, LB908, § 1; Laws 2022, LB922, § 13.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB742, section 1, with LB908, section 1, and LB922, section 13, to reflect all amendments.

**Note:** Changes made by LB742 and LB908 became effective July 21, 2022. Changes made by LB922 became operative July 21, 2022.

## Cross References

**Emergency Management Act**, see section 81-829.36.  
**Intergovernmental Risk Management Act**, see section 44-4301.  
**Interlocal Cooperation Act**, see section 13-801.  
**Joint Public Agency Act**, see section 13-2501.  
**Municipal Cooperative Financing Act**, see section 18-2401.

## Annotations

Under subsection (1) of this section, the Legislature has imposed only two conditions on the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).

An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).

An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).

When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).

Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).

A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet and directs a citizen to where the agendas for each board can be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

#### **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.

**Source:** Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1; Laws 2021, LB83, § 13.

### Annotations

To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. *Stoetzel & Sons v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003).

**84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; 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.

**Source:** Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1; Laws 2021, LB83, § 14; Laws 2022, LB742, § 2.  
**Effective Date: July 21, 2022**

#### **Annotations**

Under prior law, if a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before taking actions on questions or motions pending, that person waives his or her right to object at a later date. Hauser

v. Nebraska Police Stds. Adv. Council, 264 Neb. 944, 653 N.W.2d 240 (2002).

Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).

Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

There is no requirement that a public body make a record of where notice was published or posted. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

#### **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.

**Source:** Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

### Annotations

The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010).

Any citizen of the state may commence an action to declare a public body's action void. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).

The reading of ordinances constitutes a formal action under subsection (1) of this section. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).

If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).

Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).

When a petitioner under this section is successful in the district court, that court may allow attorney fees. *Tracy Corp. II v. Nebraska Pub. Serv. Comm.*, 218 Neb. 900, 360 N.W.2d 485 (1984).

Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. *Box Butte County v. State Board of Equalization and Assessment*, 206 Neb. 696, 295 N.W.2d 670 (1980).

The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. *Witt v. School District No. 70*, 202 Neb. 63, 273 N.W.2d 669 (1979).

Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).

Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

#### **84-1415. Open Meetings Act; requirements; waiver; validity of action.**

No motion, resolution, rule, regulation, ordinance, or formal action made, adopted, passed, or taken at a meeting as defined in section 84-1409 of a public body as defined in such section shall be invalidated because such motion, resolution, rule, regulation, ordinance, or formal action was made, adopted, passed, or taken at a meeting or meetings on or after March 17, 2020, and on or before April 30, 2021, pursuant to a Governor's Executive Order which waived certain requirements of the Open Meetings Act.

**Source:** Laws 2021, LB83, § 15.

#### **Cross References**

**Open Meetings Act**, see section 84-1407.