

Open Meetings Act—Posting Requirements

Introduction

The Michigan Open Meetings Act (OMA) requires meetings of a public body to be open to the public and held in a place available to the general public. Notice of regular meetings shall be posted within ten days after the first meeting in each calendar or fiscal year, and notice of special meetings shall be posted at least 18 hours before the meeting. In addition, the OMA allows for public bodies to hold emergency meetings. PA 528 of 2012 amended the OMA with the intent to create more transparency in the event a public body has to hold an emergency meeting that does not comply with the 18-hour notice requirement of the OMA. This new Act contains additional new posting requirements for public bodies: public bodies are now required to post notices in a “prominent and conspicuous place” on their official websites.

New requirements for rescheduled regular meetings or special meetings

If a public body reschedules a regular meeting or holds a special meeting, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting in a prominent and conspicuous place at:

- both the public body's principal office and,
- if the public body directly or indirectly maintains an official website that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for special meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those special meetings.

New requirements for emergency meetings

A public body may meet in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat. However, if a public body holds an emergency public meeting that does not comply with the 18-hour posted notice requirement, it shall make paper copies of the public notice for the emergency meeting available to the public at that meeting. The notice shall include:

- an explanation of the reasons that the public body cannot comply with the 18-hour posted notice requirement.
 - o The explanation shall be specific to the circumstances that necessitated the emergency public meeting, and the use of generalized explanations such as “an imminent threat to the health of the public” or “a danger to public welfare and safety” does not meet the explanation requirements of this subsection.
- If the public body directly or indirectly maintains a website that includes monthly or more frequent updates of public meeting agendas or minutes, it shall post the public notice of the emergency meeting and its explanation on its website in the manner described for an internet posting above.
- Within 48 hours after the emergency public meeting, the public body shall send official correspondence to the board of county commissioners of the county in which the public body is principally located, informing the commission that an emergency public meeting with less than 18 hours' public notice has taken place.
 - o The correspondence shall also include the public notice of the meeting with explanation and shall be sent by either the U.S. postal service or electronic mail.

Compliance with the notice requirements for emergency meetings shall not be construed to create a legal basis or defense for failure to comply with other provisions of the OMA and does not relieve the public body from the duty to comply with any provision of the Act.