

What would you think if your county commission, state legislature, or the U.S. Congress conducted all their business in secret? if you had no knowledge of how your representatives voted? if you were denied the opportunity to listen to the deliberations and decision-making process on issues that affect you everyday? You would probably assume these elected officials were doing something wrong and trying to hide it or that you were being cheated in some way.

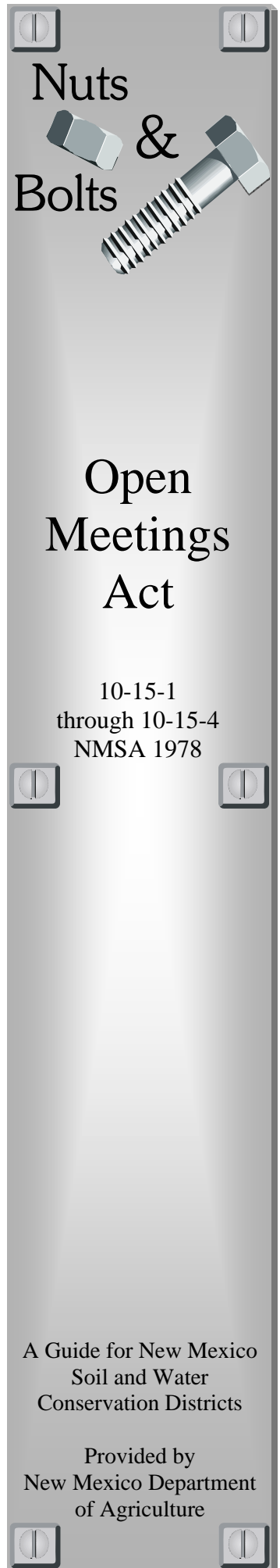
Like all elected officials, supervisors of a soil and water conservation district (SWCD) must give the public an opportunity to scrutinize their actions and expenditures of public funds. For the state of New Mexico, the New Mexico Open Meetings Act (10-15-1 through 10-15-4 NMSA 1978) is one law which sets out requirements that a SWCD must meet to ensure the public has adequate access to the business conducted by its board.

Complying with the Open Meetings Act is mostly a matter of common sense: give the public reasonable notice of SWCD board meetings, and conduct regular business in full view of anyone who chooses to attend. (Yes, there are exceptions to this rule. The Act specifies how and under what conditions a meeting may be closed to the public. Keep reading!)

This guide was prepared specifically to assist soil and water conservation districts in complying with the New Mexico Open Meetings Act. Provisions and requirements of the Act which are not likely to affect SWCDs were not included. For more complete information, refer to the *Open Meetings Act Compliance Guide* available from:

Office of the Attorney General State of New Mexico
Bataan Memorial Building
P.O. Drawer 1508
Santa Fe, New Mexico 87504-1508 (505) 827-6000
Toll Free: 1-866-5826
<http://www.nmag.gov/publications.aspx>

The Open Meetings Act Compliance Guide is an excellent resource for all SWCD employees and supervisors and everyone is encouraged to read it along with the Inspection of Public Records Act Compliance and Governmental Conduct Act guides.



A Guide for New Mexico
Soil and Water
Conservation Districts

Provided by
New Mexico Department
of Agriculture



Open Meetings Act

<p>Advance notice</p>	<p>If regular district board meetings are held according to the time, day, and location stated in the published open meetings act resolution, then no other advance notice is required for regular board meetings. If you deviate from that schedule or hold a special or emergency meeting, then the following are recommended: Regular meetings: 10 days, or publish annual resolution Special meetings: 3 days Emergency meetings: 24 hours</p>
<p>Agenda</p>	<p>Should be available to public 72 hours in advance. State items of business with reasonable specificity (“new business” and “other business” are not specific). Items added to the agenda less than 72 hours before the meeting may be discussed but cannot be acted upon until the next advertised meeting, except for emergencies.</p>
<p>Closed meetings (Executive session)</p>	<p>Convene during an open meeting by majority roll-call vote, or give notice to the public of a special or emergency meeting as stated in your open meetings resolution. State the exception giving authority for closure (see <i>Exceptions</i>) and the topic to be discussed (see sample statements on page 4). During closed meeting, limit discussion to the topic stated; do not keep minutes. When the board returns to an open meeting following the executive session, vote on the actions to be taken as a result of the closed session. State that discussion during the closed meeting was limited to the topic stated in the motion or notice for the closed meeting, and note that in the minutes of the open meeting. Persons not on the board may be present during a closed meeting at the discretion of the board, if confidentiality is maintained and favoritism is avoided.</p>
<p>Closed meetings, reasons for</p>	<p>See <i>Exceptions</i></p>
<p>Committee meetings</p>	<p>If a committee is delegated the authority to act on behalf of the board, its meetings are subject to the Open Meetings Act. When a committee serves in a fact-finding or advisory capacity, its meetings are not subject to the Open Meetings Act unless a quorum of the full board is present.</p>
<p>Emergency</p>	<p>Situation that could not be anticipated, which threatens health, safety, or property, or will result in substantial financial loss to the public body. (Missed opportunities for financial gain are not considered losses.)</p>
<p>Emergency meeting</p>	<p>Recommend 24 hours advance notice; less notice is acceptable if dictated by the emergency situation.</p>



Open Meetings Act

<p>Enforcement (see also <i>Penalties</i>)</p>	<p>The Attorney General and district attorneys enforce the open meetings act.</p> <p>Individuals may seek enforcement through the district courts, but must first give written notice to the board of the claimed violation.</p> <p>A board notified of a claimed violation should act on it within 15 days and, if necessary, correct the violation at a properly advertised meeting.</p> <p>The prevailing party in a court action to enforce the open meetings act may be awarded court costs and attorney fees.</p> <p>Boards that make a good faith attempt to comply with the act are less likely to face criminal prosecution.</p>
<p>Executive session</p>	<p>See <i>Closed meetings</i></p>
<p>Exceptions (Section of law giving authority for closure shown in brackets)</p>	<p>Personnel matters relating to any individual employee, including hiring, promotion, demotion, dismissal, resignation, or investigation of complaints or charges against an employee. [10-15-1(H)(2) NMSA 1978]</p> <p>Deliberations by a public body in connection with an administrative adjudicatory proceeding (trial-type hearing in which the public body makes a determination involving individual legal rights, duties or privileges). [10-15-1(H)(3) NMSA 1978]</p> <p>Discussion of competitive sealed bids pursuant to the Procurement Code, and sole-source purchases exceeding \$2,500. [10-15-1(H)(6) NMSA 1978]</p> <p>Discussions subject to attorney-client privilege pertaining to threatened or pending litigation. [10-15-1(H)(7) NMSA 1978]</p> <p>Purchase, acquisition or disposal of real property or water rights. [10-15-1(H)(8) NMSA 1978]</p> <p>See Open Meetings Act or Compliance Guide for additional exceptions.</p>
<p>Minutes</p>	<p>Keep for all open meetings; include a record of how each member voted (if not unanimous, list abstaining or dissenting votes by name).</p> <p>Prepare draft minutes within 10 working days after the meeting. Failure to meet this deadline may be considered a violation of the open meetings act.</p> <p>Shall be approved, amended, or disapproved at next meeting of a quorum.</p>
<p>Open meetings resolution</p>	<p>Publish annually in December to be effective for the next calendar year. (Publish an update if meeting schedule changes during the year.)</p> <p>State when and where regular meetings will be held and how exceptions to the schedule will be publicized.</p> <p>State how the public will be notified of special and emergency meetings, and committee meetings which require such notice (see Committee meetings).</p>
<p>Penalties</p>	<p>Violations of the Open Meetings Act are misdemeanors, punishable by a fine of up to \$500 for each offense.</p>



Open Meetings Act

Reasonable notice	Determined annually in Open Meetings resolution. (Must include broadcast stations and newspapers which have submitted a written request for such notice.) See also <i>Advance notice</i> .
Recess / Reconvene	Announce date, time, and place for continuation before recessing the meeting. Post notice of the date, time, and place where the meeting will reconvene at the place of the original meeting and in one other appropriate public place. Only matters on the original agenda may be discussed when reconvened. Applies to open meetings and closed (executive) sessions.
Special meeting	Recommend 3 days advance notice
Telephone conferencing	Must be authorized by board rule or resolution, or by a law other than the Open Meetings Act. Allowed if attendance at the meeting is difficult or impossible for a board member. All participants (members and the public) must be able to hear each other, and members participating by telephone must be identified when speaking.
Violations, correcting	Actions taken at meetings that are not in compliance with the open meetings act are invalid. To validate an action or correct a violation, the board may reaffirm its decision(s) in a properly advertised and open meeting.

Sample motion to close a meeting to the public:

I move that the board convene a closed meeting (*or* executive session) as authorized by the Open Meetings Act, Section 10-15-1(H)(2), to discuss possible promotion of an employee.

Sample addition to special meeting notice when a closed session is needed outside of an open meeting:

This meeting is called to discuss the purchase of land and shall be closed to the public pursuant to NMSA 1978, section 10-15-1(H)(8).

Additional resources:

New Mexico Foundation for Open Government:
1-888-843-9121, or in Albuquerque, 764-3750