



## **LOUISIANA ATTORNEY GENERAL OPINIONS ON OPEN MEETINGS**

Below are summaries of Attorney General Opinions issued about the Open Meetings Laws in Louisiana. It is important to note that the citation for the law may have changed if the law was amended after the opinion was issued.

These opinions were derived from a search of all opinions including the words “Open Meetings” on the Louisiana Attorney General’s webpage in July of 2012. Hyperlinks directly to the opinions were provided where available. The summaries are listed from the most recent opinion to the oldest opinions available on the Attorney General’s webpage. The summaries provided by the Attorney General were utilized wherever possible. Where complete and succinct summaries were not available, minor editing of the opinion was done to provide an overview.

To learn more about Attorney General Opinions, please visit the Attorney General’s homepage at <http://www.ag.state.la.us/>

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### [OPINION 10-0271](#)

A public body may amend the posted agenda following the procedure outlined in La. R.S. 2:19(A)(1)(b)(ii). The remedies available for a violation of the Open Meetings Law may be found at La. R.S. 42:26.

### [OPINION 10-0233](#)

Electronic communication during a public meeting between members of a public body and constituents, staff and/or another member of a public body is not, in and of itself, a violation of the Open Meetings Law. However, the analysis of a potential Open Meetings Law violation is much different when considering electronic communication between a quorum of members of a public body during a public meeting.

[OPINION 10-0121](#)

If a majority of members of the New Orleans City Council or a majority of members of a committee of the Council, assembled informally, deliberate, act or receive information regarding matters which are or may come before the Council or that Committee, such a gathering is a meeting which must comply with the Open Meetings Law. However, if a majority of the Council or a Committee meet by chance or gather at a social function, as long as there is no deliberation, action or information received concerning a matter over which the Council or Committee has supervision, control, jurisdiction, or advisory power, such a gathering is not subject to the Open Meetings Law.

[OPINION 09-0197](#)

An ad hoc committee formed by the Chairman of the St. Tammany Parish Council which possesses an advisory function is subject to the requirements of the Open Meetings Law.

[OPINION 09-0048](#)

Minutes from an executive session properly conducted under the Open Meetings Law (La. R.S. 42:6 and 42:6.1) and the Enhanced Ability to Compete Act (La. R.S. 46:1073) are confidential, and not required to be disclosed under the Public Records Act (La. R.S. 44:1 et seq.).

[OPINION 08-0316](#)

South Beauregard Water System, Inc. has a continuing legal obligation to execute any and all documents necessary to transfer its assets to the Waterworks District No. 3 of Beauregard Parish. Additionally, history of providing public services and receiving public funds by South Beauregard Water System transformed the South Beauregard Water System, Inc. into a public entity.

[OPINION 08-0283](#)

The Lake Carmel Subdivision Improvement District may purchase, from the parcel fees collected, liability insurance for the district and its commissioners. The Lake Carmel Subdivision Improvement District may not pay legal fees to stop construction of a rental-home project on land near the subdivision, as prevention of such construction is not included within the purposes of the district, and the location of the construction is not within the territorial jurisdiction of the district. All meetings attended by a quorum of the commissioners of the Lake Carmel Subdivision Improvement District, including joint meetings with other bodies, are subject to, and must be conducted in accordance with, the Open Meetings Law, R.S. 42:4.1, et seq.

[OPINION 08-0239](#)

Depending on the facts and circumstances surrounding a Town Hall Meeting, when a quorum of the St. Charles Parish Council attends a Town Hall Meeting called by one Councilperson, the meeting may or may not be required to comply with the Open Meetings Law.

[OPINION 08-0211](#)

The Selection Review Panel, a committee formed by the Mayor pursuant to Executive Order for evaluating contract proposals for the provision of professional services, must comply with the Open Meetings Law. The New Orleans City Council is authorized to establish standards for open

meetings that are equally applicable to the Executive Branch and the Legislative Branch of the City of New Orleans, as long as such standards do not conflict with or supersede the Open Meetings Law.

#### [OPINION 08-0211A](#)

Despite the fact that the City of New Orleans is governed by a Home Rule Charter implemented prior to the 1974 Louisiana Constitution, the City of New Orleans is still subject to La. Const. Art. XII, §3 and the Open Meetings Law at La. R.S. 42:4.1 et seq. Because the specific ordinances at issue reiterate requirements for transparency which the Executive Branch of the City of New Orleans must comply with, as required by La. Const. Art. XII, §3 and La. R.S. 42:4.1 et seq., the City Council's ordinances are merely a reiteration of state law requirements, and it is not necessary for the opinion to address whether the legislative branch has the authority to bind the executive branch of city government.

#### [OPINION NO. 08-0148](#)

The nominating committee and the appointing authority for the Board of Commissioners, the governing authority of the St. Tammany Parish Hospital Service District No. 2, are public bodies subject to the Open Meetings Laws and the Public Records Act. The nominating committee and the appointing authority are not authorized to enter into executive session for the purposes of discussing the character professional competence or physical or mental health of a person for the purposes of discussing the appointment of a person to a public body.

#### [OPINION 08-0147](#)

The Slidell Memorial Hospital Foundation is a quasi-public body, subject to the open meetings laws, public records laws, and inspection by the legislative auditor. The Foundation benefits from the advantages of the "Enhanced Ability to Compete" legislation, including executive sessions to discuss marketing strategies and strategic planning. Members of the Board of Commissioners may serve as Trustees for the Foundation, provided they meet the criteria established to serve. However, pursuant to the Foundation's Articles of Incorporation, no more than two members may serve as Trustees. With the exception of the CEO Trustee and filling a vacancy for the Hospital Trustee position, the District, acting through its Board of Commissioners, may elect Foundation Trustees pursuant to the methods described in the Foundation's Articles of Incorporation and Bylaws for filling a vacancy or via the annual election of Trustees. The District, through its Board of Commissioners, has the right to approve amendments to the Foundation's Bylaws and Articles. The Board of Trustees has the power to amend the Bylaws by a majority vote, but this right is subject to change or repeal by the Board of Commissioners. With the exception for acts affecting immovable property belonging to the Foundation, there is nothing in the current version of the Foundation Bylaws that would give the District the right to revoke actions or expenditures of the Foundation.

#### [OPINION 06-0311](#)

The nominating committee for the Southeast Louisiana Flood Protection Authority is subject to the State's "open meeting" and "public records" laws.

OPINION 05-0424

As a general rule, a police chief may run his office free from the dictates of a mayoral committee, advisory board, commission or the like. Such committee cannot make any decision, nor take any action, that would affect a police department. The mayoral advisory committee, however, must still comply with both the Open Meetings and Public Records law.

OPINION 05-0317

Advisory groups created by a political subdivision's board do qualify as "public bodies" within the meaning of the "Open Meetings Law."

OPINION 05-0026

Discussion by council members concerning the appointment of parish attorney may be held in executive session and votes on the appointment of the parish attorney should be made by council members and not merely confirmed by them.

[OPINION 04-0034](#)

A meeting of the council to receive information regarding matters over which the public body has supervision would be included in the open meeting law. The authority to call for council workshops would be either by the mayor or majority of the council.

OPINION 03-0182

La. R.S. 33:2501 does not conflict with the provisions of Louisiana's Open Meetings Law. Meetings must be held in public, but board may go into executive session for a limited purpose. Opinion Number 02-0106. The intent of Louisiana R.S. 42:5(B) is to require physical presence at open meetings in order to participate in any matter. Any participation via telephone, whether it is to obtain a quorum or to allow voting by non-present board members is a violation of the open meetings law.

OPINION 01-0427

The Houma Downtown Development Council, a non-profit corporation, is not subject to open meetings laws. A non-profit corporation is not subject to open meetings laws when it does not perform a government function and has no policy-making authority.

OPINION 01-81

A committee or subcommittee who deliberate so as to advise a public body is subject to the Open Meetings Law when a majority of the members of the committee are present.

OPINION 00-115

Valley Electric Membership Corporation VEMC is a private electric cooperative that does not receive any public funds or engage in any public function. Therefore, it is the conclusion of this office that VEMC is not subject to the Louisiana open meetings law.

OPINION 00-70

Inasmuch as a quorum of the City Council did not convene as a public body by the attendance of some Councilmen at a meeting for dissemination of information to a particular group of residents, there was no violation of Open Meetings Law.

OPINION 99-418

The delegated authority to the committee or subcommittee designated under proposed Rule XIII creates a public body subject to the open meetings laws. Any meetings held by that public body must conform with all notice requirements under those laws.

OPINION 99-394

Members of the Council who meet individually with any official, whether on the same day or different days, would not be in violation of the open meetings laws. If a quorum of the Council or a committee thereof contacts each other by telephone for the purpose of discussing or deciding on a course of action on a matter over which it has authority, this would be considered a circumvention of the open meetings laws.

OPINION 99-385

Deliberation or action by video telephone would be a violation of the open meetings laws.

OPINION 99-215

A committee created by the Livingston parish council should restrict its discussions and deliberations only to those matters over which it has jurisdiction. Discussing items outside its authority may give it a taint of a full council meeting. The policy behind the open meetings laws is the public's awareness of the performance of public officials and their deliberations and decisions. LSA-R.S. 42:4.1. Any action taken as a subterfuge to defeat these provisions is prohibited. A councilman's (who is not a committee member) potential appearance but nonparticipation at the committee meeting at issue does not appear to violate the open meetings laws. Therefore, in our opinion, his attendance as an observer is allowed by law.

OPINION 99-51

The school board may call an executive session for discussions and strategies in the lawsuit at issue. No public disclosure is required of these discussions and strategies held in executive session. Non members may be permitted into an executive session of a public body if their presence is necessary and not a subterfuge to the open meetings laws.

OPINION 98-134

Louisiana's open meetings laws apply to Louisiana Child Death Review Panel meetings.

OPINION 96-478

As a governing body of a political subdivision, an indigent defender board must publish the minutes of its proceedings. However, should an executive session be properly held, the discussions of that session are not subject to the same publication requirements.

OPINION 96-441

A group of private citizens seeking to make suggestions for governmental efficiency by doing away with redundant rules but without any governmental connections is not a public body, and not subject to the open meetings law.

#### OPINION 6-400

“Meeting” means the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power. It shall also mean the convening of a quorum of a public body by the public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction, or advisory power. (2) “Public body” means village, town and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operated utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or administrative functions, including any committee or subcommittee of any of these bodies enumerated in this paragraph. If there is a violation of the Open Meetings Law, the violation is incurred by the public official, as the law contemplates an infraction by a public official/employer, and not a private citizen. Note that generally an infraction would be dependent upon the type of “public body” that is involved, whether a quorum of the public body is present, and whether that public body is deliberating or acting on a matter over which the public body has supervision, control, jurisdiction, or advisory power.

Proxy representation by a member of a public body, is clearly prohibited regardless of whether it is in written or oral form by LSA-R.S. 42:42.5(B), which provides:

Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of LSA-R.S. 42:41 through LSA-R.S. 42:8. Does a private citizen have an obligation to invite the press or other members of the public? Again, as long as the definition of a “meeting” is unsatisfied, the private citizen is not required to invite the press or other members of the public. Under the Open Meetings Law there is no language that specifically provides that a private citizen must inform the elected officials that there may be a quorum of the body present, whether or not the gathering constitutes a “meeting” for purposes of notification under the Open Meetings Law.

#### OPINION 96-374

Opinion 81-1035 is revoked; the Judicial District Indigent Defender Boards are not exempt from the open meetings laws under LSA-R.S. 42:6.1(B).

#### OPINION 96-314

A team building seminar with the Mayor and City Council of Shreveport, in which no official business or plans will be discussed and with the sole purpose being to improve interpersonal skills, is not a meeting and thus is not subject to the Open Meetings Law.

#### OPINION 96-207

Informal supper meeting of police jury is a meeting requiring public notice under open meetings laws.

#### OPINION 95-316

Commercially sensitive confidential information which is part of the marketing strategy or strategic plan of the hospital service district remains exempt from disclosure under the Public Records Act.

OPINION 94-47

The Slidell Police Civil Service Board have to conduct its meeting in the open with executive session limited to the statutory exceptions and privileged material.

OPINION 94-16

The question herein is more difficult than those presented in Spain and Seghers in that LARC was not organized solely to perform a governmental function. However, in consideration of the liberal construction mandated for the "Open Meetings" law by LSA-R.S. 422:4.1 and the purpose of LARC along with the fact that it is receiving public monies both for its core operations and for Acadian Village, we conclude that LARC is indeed subject to the State's "Open Meetings" law, LSA-R.S. 42:4.1 et. seq. and should comply therewith.

OPINION 92-726

The Caddo Parish Special Education Advisory Council is a public body as defined by statute. Any subcommittee appointed by the Council to function in an advisory and policy-making manner is also a public body as defined by statute. The Council and its subcommittees are subject to the Open Meetings Law, and must act in conformity with those statutory provisions.

OPINION 92-698

A committee of citizens established by the City of Franklin is a public body subject to the provisions of the Louisiana Public Records Act and the Open Meetings Law. Tax returns and other personal financial information submitted to the committee by a loan applicant is confidential information, not subject to public disclosure. The committee may lawfully call an executive session to discuss the privileged information submitted by an applicant, but must formally vote in open session.

OPINION 92-476

The Lake Pontchartrain Basin Foundation created under the Greater New Orleans Expressway Commission is a public body subject to the open meetings law and the public records act.

OPINION 92-299

A meeting of a majority of the members of the Jefferson Parish Library Board is a public meeting, subject to all of the requirements of the State's "Open Meetings Law."

OPINION 90-376

Upon the facts you have related, no violation of the Open Meetings Law is evident. You advise that because of the limited geographic area of the village, it is not uncommon for a quorum of aldermen to be present at one location in "chance meetings" or social encounters. You state that your understanding of the Open Meetings Law (LSA-R.S. 42:4.1 et seq.) is that as long as the town business is neither deliberated nor voted upon during the social gathering, there is no violation.

OPINION 90-349

If there is no quorum present for the discussion of public business, the committee meeting is not subject to R.S. 42:5, 7, 7.1. However, your clients should be cautioned to avoid the use of the sanction of this opinion to engage in the so-called "walking quorum." In this artifice, different

committee members leave the meeting and different members enter the meeting so that while an actual quorum is never physically present an actual quorum during the course of the meeting participates in the discussion. While the Tangipahoa Parish Council is clearly in good faith in this opinion request, please advise them that the abuse of the practice of a "walking quorum" is subject to the injunctive remedy of R.S. 42:11A(2).

OPINION 90-300

A quorum of a committee of the school board meeting to receive information on a matter over which it has supervision, is subject to the open meetings law.

OPINION 90-153

The mandate of La. R.S. 33:3884 is that a Preliminary resolution shall be adopted, fixing a date for hearing. Also, a hearing shall be held before any order is entered which affects the existence of the sewerage district.

From the nature of your opinion request, it appears obvious that no motion was passed fixing a hearing date nor was a proper hearing held. It is, therefore, the opinion of this office that the action of the Livingston Parish Police Jury on March 13, 1990, abolishing Sewer District II, is invalid.

OPINION 90-132

The term "person" as used in the provision of the Louisiana Open Meetings which allows public bodies to meet in executive session to discuss "the character, professional competence, or physical or mental health of a person" refers only to human beings and not to corporations or any other legal entity.