

# NEVADA'S OPEN MEETING LAW

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A stylized silhouette of a mountain range in a teal color, located in the bottom right corner of the slide.

# Legislative Intent of “OML”

deliberations and board actions be  
conducted openly

# When Does the OML Apply?

- ◆ In general, OML applies to all meetings of a public body at which deliberation takes place and/or action may occur.

# Pillars of the OML

- ◆ Public Body
- ◆ Meeting
- ◆ Notice
- ◆ Agenda
- ◆ Minutes



# Public Body

NRS 241.015(4)

- ◆ Any administrative, **advisory**, executive or legislative body of the state or local government
- ◆ which expends or disburses or is supported in whole or in part by tax revenue
- ◆ or which **advises or makes recommendations** to an entity which expends or disburses or is supported in whole or in part by tax revenue
- ◆ includes any board, **commission**, committee, subcommittee or other subsidiary thereof



# Meeting


## NRS 241.015(3)(a)(1)

- ◆ In general, a “meeting” is:
  - The **gathering of members** of a public body at which a **quorum** is present to **deliberate** toward a decision or to take **action** on any matter over which the public body has supervision, control, jurisdiction or advisory power.



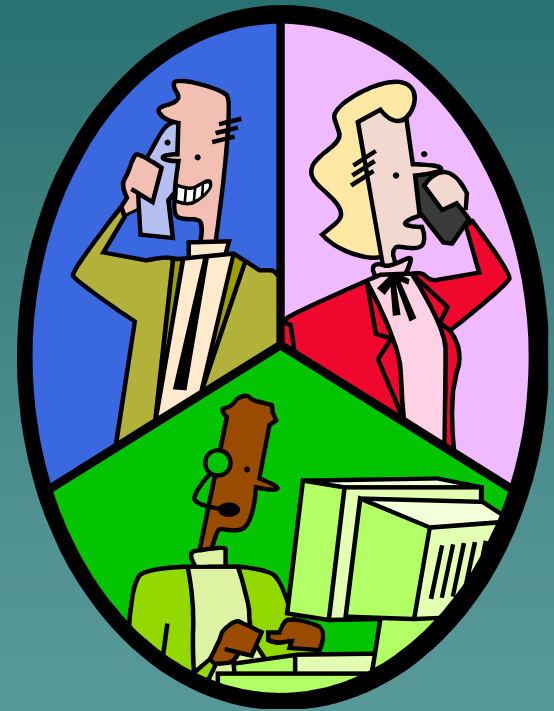
# What is a Quorum?

NRS 241.015(5)

- ◆ A simple majority of the public body's membership
  - ◆ Or another proportion as required by specific statute
- 

# Special Note

- ◆ Serial Electronic communication must not be used to circumvent the spirit or letter of the Open Meeting Law
  - (NRS 241.016(4))
- ◆ Be careful when communicating over email-  
Avoid “Reply All”





# Watch Out for “Walking Quorum”

NRS 241.015(3)(a)(2)

- ◆ If a public body’s members engage in a **series** of gatherings at which:
  - (I) Less than a quorum is present at any individual gathering;
  - (II) But, the members of the public body attending one or more of the gatherings **collectively constitute a quorum**; and
  - (III) The **series** of gatherings was held with the **specific intent** to avoid the OML= **OML violation**

# Exception: Attorney-Client Communications

- ◆ Quorum of board members may gather to:
  - Receive information from the public body's attorney regarding potential or existing litigation, and to deliberate toward a decision=**NOT a meeting** (NRS 241.015(3)(b)(2))
  - Receive training from the public body's attorney regarding legal obligations, if public body does NOT deliberate toward a decision=**NOT a meeting**
- ◆ E-mail communication with the board's attorney= generally NOT a meeting
  - **But do not hit "Reply All"**

# Exception: Social Function

NRS 241.015(3)(b)(1)

- ◆ Even if a quorum is present, social functions are NOT meetings, as long as the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

Don't turn a party into a meeting!!



# Notice of Meeting (Agenda)

## NRS 241.020

- ◆ Day, Time, Location (include room)
- ◆ Must be posted 3 Working Days prior to meeting (by 9 a.m.)

# Agenda

## NRS 241.020

- ◆ Clear and Complete statement of topics to be considered
  - The Commission may only discuss items that are on the agenda
  
- ◆ Notation “For Possible Action” if action item
  - The Commission cannot take action on an item unless the Agenda includes “for possible action” on that item.
  - Action
    - ◆ Decision, commitment or promise, affirmative vote



# Agenda cont...

## NRS 241.020

- ◆ Public Comment Periods
  - Block of time at beginning and end of meeting; or
  - During each action item
    - ◆ (After public body has discussed item, but before public body has taken any action on that item)
  - Cannot restrict a speaker's viewpoint
  - However, conduct that disrupts the meeting's order, efficiency or safety may be limited
  - Board cannot deliberate or take action in response to public comment, unless item is already on the agenda

# Minutes

## NRS 241.035

- ◆ Minutes must contain:
  - Date, time, location of meeting
  - Members present
  - Substance of all matters discussed or decided
  - Remarks made by member of public (if person requests minutes reflect remarks)
- ◆ Minutes must be approved w/in 45 days or at the next meeting (whichever later)
- ◆ Meetings must be audio-recorded or transcribed by certified court reporter



# Corrective Action

- ◆ If an OML violation occurs, the public body may take corrective action within 30 days
- ◆ If appropriate corrective action taken, Attorney General's Office may elect not to prosecute the OML violation.



# Enforcement

- ◆ Person may make Open Meeting Law complaint to Nevada Attorney General's Office
  - The AG's Office may investigate and prosecute the complaint

# Enforcement, cont...

- ◆ If AG conducts investigation, it will inform public body
- ◆ After investigation complete, AG will issue:
  - A finding that NO violation occurred; OR
  - A finding that a violation occurred + an explanation for this finding
- ◆ If AG finds an OML violation, public body must acknowledge finding on next agenda

# OML Violations

- ◆ AG may bring a legal proceeding to void an action taken in violation of the Open Meeting Law; or to obtain an injunction to prevent violations of the Open Meeting Law
- ◆ A private citizen may also bring a legal proceeding

# OML Violations

- ◆ Action taken in violation of the Open Meeting Law is **void** - NRS 241.036
- ◆ OML violations may result in administrative fines against board members
  - 1<sup>st</sup> offense: \$500; 2<sup>nd</sup>: \$1,000; 3<sup>rd</sup>: \$2,500
- ◆ Serious violations of the OML (member has knowledge of violation & participates in violation) can result in **misdemeanor** charges
- ◆ However, if a board member violates the OML because the board member is relying on legal advice of board counsel= no administrative fine or criminal penalty.



# Sources of Information

- ◆ NRS Chapter 241
- ◆ Open Meeting Law Manual published by the Attorney General's Office
  - Available online at <http://ag.state.nv.us>
- ◆ Opinions from the Attorney General's Office relating to the OML
  - Available online at <http://ag.state.nv.us>

