

KDLA November 2009 Trustee Tip of the Month *Open Meetings Act: Are All Meeting Public Meetings?*

The Open Meetings Act applies to all meetings held by state and local government agencies - including any committees of a library board. All state or local government agencies are covered by the Act, including committees, advisory committees, and ad hoc committees, which are established, created, and controlled by a public agency. See KRS 61.805(1) and 01-OMD-30.

Under the Open Meetings Act there are only two kinds of meetings. Regular meetings are governed by the provisions of KRS 61.820 and special meetings are controlled by the provisions of KRS 61.823. If the public agency holds a meeting in addition to, outside of, or in place of the regular meeting schedule, that meeting is a special meeting and the provisions of KRS 61.823 must be followed. Those provisions include requirements pertaining to the written notice and the agenda, the delivery of the notice, and the posting of the notice. Failure to follow all of these provisions constitutes a violation of the Open Meetings Act.

Unless the work session is a regularly scheduled meeting, within the meaning of KRS 61.820, it must be treated as a special meeting and is subject to all the notice requirements appertaining thereto.

Also, a committee of a public agency, even if its function is purely advisory, is a public agency for open meetings purposes and a quorum of its members is calculated on the basis of the committee's membership and not the membership of the public agency that created it (the city commission, consisting of five members, creates a budget committee, consisting of three members - a quorum of the commission exists if three members are present and a quorum of the committee exists if two members are present); the committee must comply with all requirements of the Act.

Quick Tips:

- There are only two types of Library Board Meetings - regular or special.
- A regular meeting is held at a specific time and place that is convenient to the public on a regular schedule which is made available to the public.
- If the meeting is not the regular meeting, it needs to be handled by the provisions for a special meeting:
 - The President or a majority of Library Board Trustees may call a special meeting.
 - Notice of the special meeting is delivered to the Board Trustees by mail, fax, or in person at least 24 hours in advance of the special meeting.



- ◆ Notice of the special meeting may be made by e-mail if the Trustee has filed a written request indicating a preference to be notified by electronic mail.
- Any media organization that has filed a written request to be notified of a special meeting must also be notified at least 24 hours in advance of the meeting.
- The date, time, location, and agenda of the Special Meeting must be posted in a conspicuous place in the Library as soon as possible but at least 24 hours in advance of the meeting.
- Discussion and action(s) taken at a special meeting are limited to the items included on the posted agenda.
- All Committees appointed by the Library Board to work on Library business are subject to the provisions of the Open Meetings Act and the meeting of those committees would be handled as a special meeting.
- For a committee meeting, the quorum would be determined based on the total number of committee members.
- If there are three Trustees on a committee to work on the budget, hire a director, or provide advice on a special project, etc.; then two would be considered a quorum for the committee and the meeting would be subject to the Open Meetings Act.

You can refer to *Your Duty Under the Law* for more information on the requirements of the Open Meetings Act. This publication, and the accompanying, *Managing Government Records*, that provides information about the Open Records Act, are available on the Web site of the Office of the Attorney General at <http://www.ag.ky.gov/civil/orom/Document/YourDutyUndertheLaw.pdf>.

As an appointed official you are required to receive a copy of these documents within 60 days of your appointment to the Board. You will also need to sign a *Proof of Receipt* for these documents which is also available at the above link.

This is not legal advice and I am not an attorney. If you feel you need legal advice you should consult an attorney.

For more information, contact:

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