

## ***Ohio Attorney General Opinions Interpreting Ohio’s Open Meetings Act***

The following are summaries of selected Opinions of the Ohio Attorney General that have addressed or interpreted the Ohio Open Meetings Act. Be aware that the validity of any one opinion may have been affected by a subsequent court opinion or statutory change. The full text of these opinions can be found at <https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions>.<sup>i</sup>

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### ***2012-032***

The Ohio Vendors Representative Committee is a public body subject to the requirements of R.C. 121.22. A subcommittee of the Committee is a public body subject to the requirements of R.C. 121.22 when the subcommittee provides advice and recommendations to the Committee.

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### ***2012-022***

To hold an executive session pursuant to R.C. 121.22(G)(1), a person must, in the motion and vote to hold that executive session, state which one or more of the approved purposes listed in R.C. 121.22(G)(1) are the purposes for which the executive session is to be held. This requirement is not satisfied if the motion and vote state, without further explanation, that the session is to discuss a “personnel matter.”

Any vote or action by a county children services board officially placing its executive director on administrative leave is a formal action under R.C. 121.22(H) that must occur in a meeting open to the public. The failure to comply with this requirement renders the vote or action invalid.

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### ***2011-038***

A public body that is subject to the requirements of the Open Meetings Act may not vote in an open meeting by secret ballot. R.C. 121.22 is intended to ensure openness and accountability in government. Voting by secret ballot is inconsistent with the purpose of the open meetings law and denies the people their right to view and evaluate the workings of their government. A meeting is not “open” to the public where members of a public body vote by way of secret ballot. (1980 Ohio Op. Att’y Gen. No. 083 (syllabus, paragraph 4), overruled).

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## 2009-034

During a declared emergency, R.C. 5502.24(B) provides a limited exception to fulfilling the requirements of the Open Meetings Act. A public body may meet at an alternative location, and exercise their powers and functions “in the light of the exigencies of the emergency without regard to or compliance with time-consuming procedures and formalities prescribed by law pertaining thereto.” However, this is not an exception to the “in person” meeting requirement of R.C. 121.22(C) and does not permit the public body to meet by teleconference.

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## 2008-003

Depending on the manner in which it is formed and operated, a non-profit corporation formed under R.C. 183.061 might be subject to the public records law in R.C. 149.43, the open meetings law in R.C. 121.22, or particular contracting controls governing state agencies.

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## 2007-019

A board of township trustees has authority to enforce its own rules as to how to maintain order at, approve the minutes of, and provide and distribute a written agenda for its regular meetings.

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## 2000-035

Public hearings conducted by a township board of zoning appeals to consider the matters described in R.C. 519.14(A)-(C) are not “meetings” for purposes of R.C. 121.22, but rather, are quasi-judicial proceedings. (1985 Ohio Op. Att’y. Gen. No. 044 (syllabus, paragraph two, overruled); followed by *Groff-Knight v. Bd. of Zoning Appeals of Liberty Twp.*, 5th Dist. No. 03CAH08042, 2004 Ohio App. LEXIS 2856 (June 14, 2004).

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## 1996-046

The health care quality advisory council created by R.C. 4121.442 is without authority to permit a member who is appointed by the Governor to designate an alternate to vote on such member’s behalf at council meetings.

Pursuant to R.C. 121.05, the Administrator of Workers’ Compensation may designate his assistant or a deputy to serve in his place as a member and chairman of the health care quality advisory council.

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## *1996-010*

Absent adoption of a rule by a county board of mental retardation and developmental disabilities specifying the day on which its annual organizational meeting is to be held, the board's annual organizational meeting is not one of the regularly scheduled meetings for purposes of the removal provision of R.C. 5126.04.

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## *1995-030*

A district advisory council, established pursuant to R.C. 3709.03 has inherent authority to call special meetings of the council by acting through the concurrence of a majority of its members with respect to a particular meeting or by promulgating a procedural rule authorizing specified officers or members of the council to call special meetings; the board of health of a general health district and the state director of health, as expressly provided in R.C. 3709.03, are the only other public authorities with power to call a special meeting of the district advisory council.

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## *1995-001*

A PASSPORT administrative agency that is operated by a private not-for-profit agency pursuant to Ohio Admin. Code 5101:3-31-03(A)(1) is a public office as defined at R.C. 149.011(A) for purposes of the public records law and a public body as defined at R.C. 121.22 for purposes of the open meetings law.

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## *1994-096*

A committee of private citizens and various public officers or employees that is established by the board of health of a general health district for the purpose of advising the board on matters pertaining to the administration of a state or federal grant program is a public body; where the establishment of the committee is not required or authorized by the terms of the grant or any action of the general health district board, such committee is not a public body.

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## *1994-014*

The panel created by the Erie County Court of Common Pleas in Local Rule 17.08(F) for the purpose of making recommendations to that Court on the reasonableness of requests for attorney fees for the representation of indigent clients is not subject to the open meeting requirements of R.C. 121.22.

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## *1993-033*

Pursuant to R.C. 5715.07, all documents relating to the assessment of real property that are in the office of a county board of revision or in the official custody or possession of the board of revision are required to be open to public inspection.

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## *1993-012*

The Industrial Commission is a “public body,” as defined in R.C. 121.22(B)(1), and is, therefore, subject to the open meeting requirements of R.C. 121.22. R.C. 4121.36 provides that orders, rules, memoranda, and decisions of the Industrial Commission with respect to hearings conducted under R.C. 4121.36 may be adopted either in a meeting of the Commission or “by circulation to individual commissioners,” and thereby establishes an exception to the requirement of R.C. 121.22 that the Industrial Commission adopt all resolutions, rules, or formal actions in an open meeting.

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## *1992-078*

The board of directors of a county agricultural society is a public body subject to the open meeting requirements of R.C. 121.22.

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## *1992-077*

An advisory committee legislatively created by a board of county commissioners to make recommendations to the board on matters relating to a proposed county jail is a public body subject to the provisions of R.C. 121.22.

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## *1992-065*

A housing advisory board created by a county under R.C. 176.01 is a public body for purposes of R.C. 121.22.

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## *1992-032*

A board of township trustees must conduct its open meetings in a public meeting place, as determined in its fair and impartial discretion; board of township trustees may not conduct an executive session from which the public is excluded in order to deliberate about a proposed zoning change, even if the board ultimately votes on that matter in an open meeting, unless the deliberations were solely for the purpose of discussing one or more of the six subject areas listed in R.C. 121.22(G).

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## ***1990-028***

Unless a statutory or constitutional provision expressly grants a specific officer of a public body the power to make the decision to call a meeting of such body, the power to make the decision is vested in the body itself and not inherently in an individual officer; the decision that a meeting is necessary requires a concurrence of a majority of the body; pursuant to R.C. 5715.09, the secretary of the board of revision has the power to call a meeting of the board as necessary.

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## ***1988-087***

A board of township trustees has authority to adopt reasonable rules for the conduct of its meetings; such rules may not prohibit audio and video recording of township proceedings, but may regulate such recording to promote the orderly transaction of business without unreasonably interfering with the rights of those present.

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## ***1988-029***

The Public Utilities Commission Nominating Council is a public body as defined in R.C. 121.22.

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## ***1988-003***

The word “property,” as used in R.C. 121.22(G)(2), means real and personal property, which includes both tangible and intangible property; the PERS may discuss in executive session the purchase or sale of tangible or intangible property authorized under R.C. 145.11, including but not limited to, such items as bonds, notes, stocks, shares, securities, commercial paper, and debt or equity interests.

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## ***1985-046***

In its development of amendments to the state health plan, the Statewide Health Coordinating Council (SHCC) must, pursuant to R.C. 3702.56(C), follow the procedures set forth in R.C. 119.03(A), (B), (C) and (H), with the exception of requirements imposed pursuant to R.C. 121.24 or 127.18, but need not comply with 119.03(D), (E), (F), (G) and (I); in particular, the SHCC must follow the public notice and hearing procedures of R.C. 119.03(A) and (C) and must file proposals with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review under R.C. 119.03(B) and (H); but proposed amendments to the state health plan are not subject to invalidation by the General Assembly pursuant to R.C. 119.03(I).

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## ***1985-044***

A township board of zoning appeals is a public body for purposes of R.C. 121.22; a township board of zoning appeals may not conduct, in an executive session, deliberations concerning a zoning appeal heard pursuant to R.C. 519.14(A) or (B). (Syllabus, paragraph two, overruled by 2000 Ohio Op. Att’y Gen. No. 035).

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## ***1982-081***

A soldiers’ relief commission established pursuant to R.C. 5901.02 is a public body for the purposes of R.C. 121.22.

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## ***1981-005***

Because the superintendent’s offices are, pursuant to R.C. 3319.19, to be used by the county board of education when it is in session, and because the board’s meetings are required by R.C. 121.22 to be open to the public, the duty of the board of county commissioners to provide and equip offices includes the duty to provide some type of conference facility.

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## ***1980-083***

A county central committee of a political party is a public body and its members are public officials for purposes of R.C. 121.22; convening the committee pursuant to R.C. 305.02 is a meeting as defined by R.C. 121.22(B)(2), even when the number of members present is fewer than the majority of the total membership; the committee may discuss appointment of a person pursuant to its duties under R.C. 305.02 in executive session under R.C. 121.22(G), however, final voting on such appointment must be held in a public meeting; convening the committee for conducting purely internal party affairs unrelated to the committee’s duties of making appointments to vacant public offices is not a meeting as defined by R.C. 121.22(B)(2). (Syllabus, paragraph four, overruled by 2011 Ohio Op. Att’y Gen. No. 038).

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## ***1979-110***

The Safety Codes Committee, created by resolution of the Industrial Commission for the purpose of reviewing safety code requirements and drafting revisions for consideration by the Industrial Commission, is not a public body for the purposes of R.C. 121.22.

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## **1979-061**

The governing board of a community improvement corporation, organized in the manner provided in R.C. 1702.04 and R.C. 1724.01 to R.C. 1724.09, inclusive, does not constitute a public body for the purposes of R.C. 121.22 unless it has been designated an agency of a county, municipal corporation, or any combination thereof, pursuant to R.C. 1724.10.

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## **1978-059**

The Internal Security Committee, established by the Industrial Commission and the Bureau of Workers' Compensation pursuant to R.C. 4121.22(D), is a public body for purposes of R.C. 121.22.

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## **1977-075**

Pursuant to R.C. 4112.05(B), the Ohio Civil Rights Commission may not reveal the final terms of conciliation, written or unwritten, to members of the general public who are not parties to the matters conciliated.

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### Notes:

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<sup>1</sup> When searching the full text of these opinions on the Attorney General's website, use the numbers found in bold above each body of text. If using another search method (such as LexisNexis or Westlaw), the citation format will be different. For example, to locate the first opinion listed on this page, the format would be – 2012 Ohio Op. Att'y Gen. No. 2012-032.