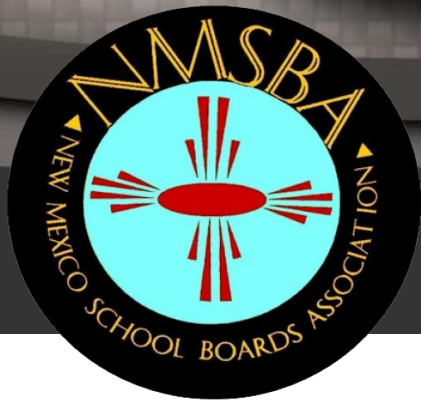




Board President Leadership Through Effective Meetings: Mastering the NM Open Meetings Act



450 Strong!

Presented to NMSBA 2026 Leadership Retreat
July 18, 2026
by Geno Zamora, Esq.

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Overview

- “NEW” LAW 2024 SB 137
- New Mexico Open Meetings Act
 - Public policy for open meetings
 - When does OMA apply/not apply?
 - Executive sessions
 - Meeting notices and agendas
 - Emergency meetings, meeting minutes, and public comments
- Board and Superintendent Checklist
- Working with Your Attorney
- Questions/Comments

NEW LAW – Senate Bill 137

Effective July 1, 2024

- Local School Board Meetings—Webcasting and Archiving:
 - Live audio and video webcasts accessible through district website
 - Shall include a user interface that allows members of the public to submit written or verbal comments
 - Webcast from “call to order” to “adjournment”
 - Webcasts and approved minutes shall be posted on district website within 7 days and remain for at least 3 years

Public Policy for OMA

- New Mexico Open Meetings Act, NMSA 1978, Sections 10-15-1 through 10-15-4
- Section 10-15-1(A)
 - Government is dependent on an informed electorate
 - All persons are entitled to the greatest possible information regarding the affairs of government and official acts of those officers and employees who represent them

Public Policy for OMA

- The formulation of public policy or the conduct of business by vote shall not be conducted in closed meetings
- All persons desiring shall be permitted to attend and listen to the deliberations and proceedings
- Board needs to pass its annual OMA resolution with reasonable notice of meetings and process

OMA Applies to:

- Section 10-15-1(B)
 - All meetings of a quorum of members ... held for the purpose of formulating public policy
- “Rolling Quorums”
- What about the following?
 - Video conferences/meetings?
 - Email/text communications?
 - Community events?
 - Phone calls between 2 members?
 - Campus tours?



Executive Sessions

- Section 10-15-1(H), permitted for:
 - (2) **Limited personnel matters of any individual public employee**
 - (4) **Identifiable student information**
 - (5) **Collective bargaining** strategy and negotiations
 - (6) Reviewing **competitive sealed proposals and negotiations** under the Procurement Code, for proposals over \$2,500
 - (7) **Attorney-client privileged** discussions of pending or threatened litigation
 - (8) Discussions of the acquisition or disposal of **real property or water rights**



Executive Session Requirements

- Public notice required, stating specific provision of law and reasonable specificity of the subject to be discussed
- Generally, no action can be taken in executive session
- Roll call vote to go into executive session
- Motion to return to open session requires a statement that only those topics listed were discussed in executive session, voice vote ok

Meeting Notices and Agendas

- Any meetings ... and any closed meetings, .. shall be held only after reasonable notice to the public.
- NOTICE AND AGENDA MUST BE POSTED AT LEAST 72 HOURS BEFORE MEETING
 - Must be posted on the website
 - NMSBA Policy Service: At central office AND all school sites
 - Must be available to the public (posted in publicly viewable places)
 - Includes sending to broadcast stations and newspapers of general circulation that have requested notice

Meeting Notices and Agendas

- Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted
- Vague items could be challenged



Who creates the Agenda?

- Typically determined by Board Policy
 - Includes order of business
- Superintendent and Board President lead the process
- Board member addition of items varies
 - One Board member?
 - Two Board members?
 - Consensus from a previous meeting?

Emergency Meetings

- Bottom Line: Highly unlikely and very difficult to prove
 - Section 10-15-1(C)
 - “Emergency” is for unforeseen matters that, if not addressed immediately ... will likely result in injury or damage to persons or property or substantial financial loss to the district
 - Within 10 days, the meeting must be reported to the Attorney General explaining the need
- Attorney General may rule meeting or actions invalid**

Meeting Minutes

- Section 10-15-1(G) the Board shall keep written minutes of all its meetings with:
 - Date, time, and place of meeting
 - Members in attendance and absent
 - Substance of the proposals considered
 - A record of any decisions made and votes taken to show how each member voted
- Draft minutes shall be prepared within 10 working days of meeting (mark them “draft”)
- Minutes shall be approved at the next meeting where a quorum is present

Public Comment Considerations

- Typically governed by Board Policy
- Rules of thumb:
 - Put a time limit that applies to all speakers
 - No sharing of time
 - Topics should relate to school district business
 - Should not discuss individual employees or students
 - No limitation on negative comments/criticism
 - Use a “ground rules” script and a timer
- Board cannot engage in discussion during public comment

Virtual Meetings

NMAG Advisory ONLY applied during COVID Emergency

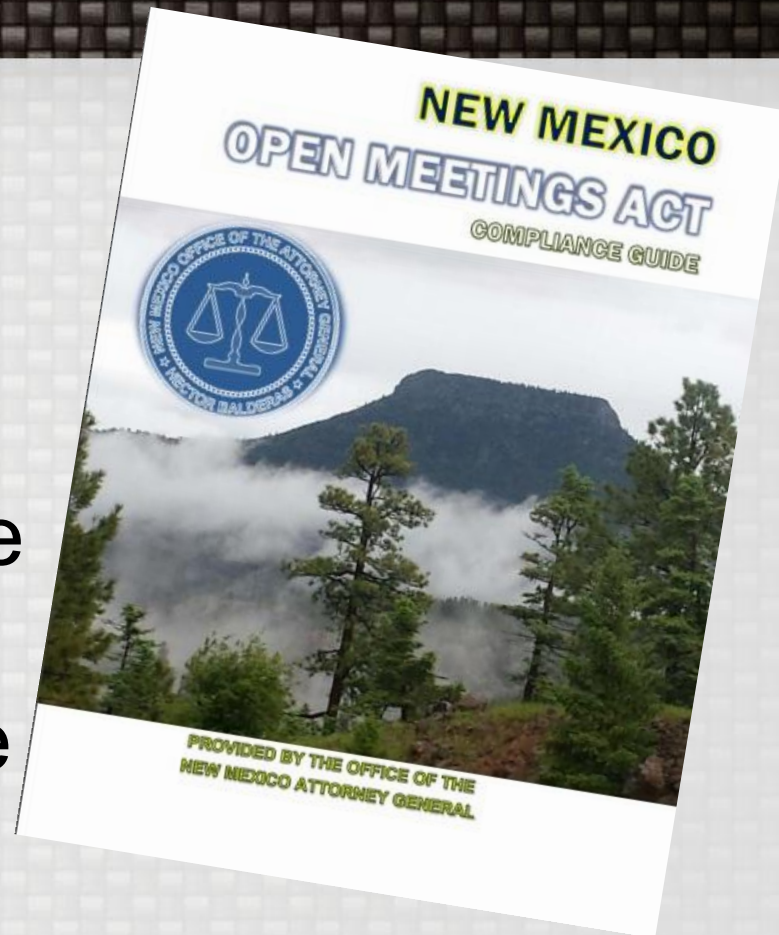
- Everybody back in the Board room unless:
“otherwise difficult or impossible for the member to attend the meeting in person” § 10-15-1(C)
- If a member is remotely attending:
 - At start, announce names of remote members
 - Members must identify selves when speaking or voting
 - Pause meeting if audio/video problems
 - All votes must be by roll call

Penalties/Consequences

- Sections 10-15-3 and 10-15-4
 - **No Board action is valid unless taken at an OMA compliant meeting**
 - If OMA was violated, the action is invalid and then Board will be required to re-vote
 - **OMA is enforced by the Attorney General, District Attorney, or private individual**
 - Successful Plaintiff may receive costs and reasonable attorneys' fees
 - Frivolous claimants may have to pay reasonable attorneys' fees
 - Possible criminal misdemeanor penalties/fines

Resources

- New Mexico Statutes Annotated, Sections 10-15-1 through 10-15-4
- New Mexico Open Meetings Act Compliance Guide, issued by the NM Attorney General's Office (2015)



<https://nmdoj.gov/publications/compliance-guides/>

NMSBA Policy Service

- B-0900 Board Organizational meeting- Oaths of office, and determine officers at first regular meeting in January
- B-1400 School Board Meetings - Meeting scheduling, OMA resolution, types of meetings
- B-1550 Executive Sessions/OMA
- B-1650 Notification of Board meetings - Where and how posted

NMSBA Policy Service

- B-1700 Agenda – Format and topic order
- B-1750 Agenda Preparation and Dissemination
- B-1850 Rules of Order
- B-2050 Voting Method
- B-2150 Public Participation at Board Meetings (Public Comment)

Board and Superintendent Checklist

- SB 137 Compliance – through website
 - Live Streaming, with opportunity to submit written or verbal comments
 - Archived meeting video and approved minutes (kept for 3 years)
- Annual OMA Resolution (Either January or June/July)
- Agenda posting:
 - At least 72 hours before meeting on website and designated locations
 - Reasonably specific agenda items
 - Only executive session if identified at time of posting
- Minutes – Draft w/in 10 days, approve at next regular meeting
- Superintendent Communications with Board – bcc board members to avoid rolling quorum
- Post notices of potential quorum for graduation, etc.

Working with Your Attorney

- Agenda Preparation
 - Periodic attorney review for OMA compliance
 - Request that attorney draft/review executive session or unique item language
- Agenda posting – call attorney regarding posting concerns
- Other review/preparation:
 - Notices of potential quorum
 - Annual OMA resolution
 - Script for public comment period
- Meeting attendance
 - as needed, required for pending/threatened litigation executive session
- **Reminder: Attorney is the Superintendent's teammate, but is counsel to the Board**

Questions/Discussion

- 2024 Senate Bill 137
- Public policy and OMA application
- Executive sessions
- Meeting notices and agendas
- Emergency meetings, minutes, and public comments
- Penalties
- Resources



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