



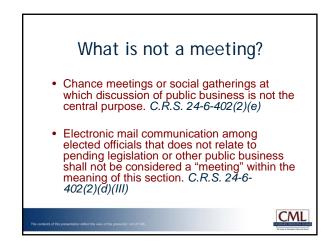
## Meetings are defined as:

Any kind of:

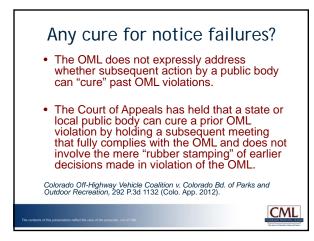
- gathering, convened to discuss public business,
- Which is conducted: • in person.
- by telephone,
- electronically, or
- by other means of communication.
- C.R.S. 24-6-402(1)(b)

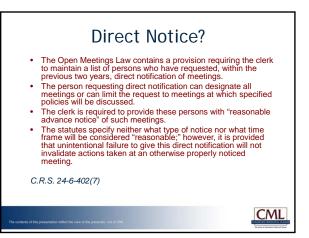
Whenever 3 or more members (or a quorum, if less than 3) where business is discussed or formal action may be taken, the gathering is considered a meeting subject to these laws C.R.S. 24-6-402(2)(b)

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## Minutes of meetings

- The clerk, or other official in the clerk's absence, must take the minutes of any meeting of the local body "at which the adoption of any proposed policy, position, resolution, rule, regulation, or <u>formal action</u> occurs or could occur."
- The possibility of some sort of formal action is necessary to trigger the minutes requirement.
- If an executive session is called, the minutes must reveal the topic of discussion in the executive session.
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  After the meeting, the minutes must be recorded promptly and are considered a public record open to
- promptly and are considered a public record open to inspection. C.R.S. 24-6-402(7)

Note: Many clerks utilize recording devices from which the actual "minutes" are transcribed at a later date. If an electronic recording serves as the actual minutes of the jurisdiction, the OML requires that the electronic recording practice must continue. C.R.S 24-6-402(2)(d.5)(II)(A).

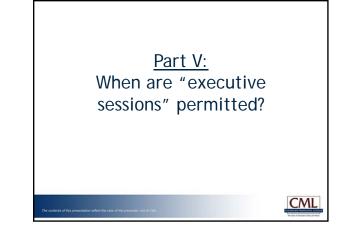
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## Are emergency meetings allowed? The OML does not expressly address whether emergency meetings are allowable. However, the Colorado Court of Appeals has recognized the need for municipalities to hold emergency meetings on occasion, and has upheld an ordinance providing for such meetings without prior public notice, where action taken would be ratified at a subsequent public meeting for which full and timely notice is provided. The court defined an emergency as "an unforeseen combination of circumstances or the resulting state that calls for immediate action," and acknowledged that the notice requirement may be affected by the type of meeting involved. Note: this exception should be on the margin – very unusual. Lewis v. Town of Nederland, 934 P.2d 848 (Colo. App. 1996).

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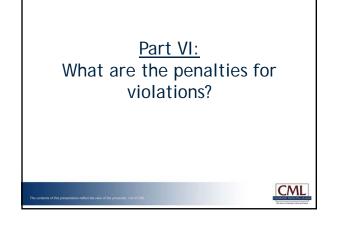


Executive sessions are private meetings of the public body from which the general public is excluded, permitted to consider the following:

- Property transactions
- Attorney conferences
- · Confidential matters under state or federal law
- · Security arrangements or investigations
- Negotiations
- Personnel matters
- Documents protected under Open Records Act

C.R.S. 24-6-402(4)(a)-(g)

Calling an executive session When?: May only be called at a regular or special meeting. The OML is silent on any particular notice of intent to hold an executive session as part of a regular or special meeting. C.R.S. 24-6-402(4) How?: C.R.S. 24-6-402(4) Announce the topic of discussion, including the specific citation to the OML (C.R.S. 24-6-402(4)) which authorizes consideration of the announced topic in executive session Identify particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized. The body must then yote on whether to hold the session for discussion of the topic(s) announced. <u>Two-thirds of the quorum</u> present must vote affirmatively before the governing body can close the meeting to the public. Other requirements?: The minutes of the regular or special meeting must reflect the topic of discussion at the executive session. C.R.S. 24-6-402(2)(d.5)(II) CML



## What are the consequences?

Unlike ethics violations, no potential personal sanctions for noncompliance.

- Any action taken at a noncompliant meeting is void. c.R.S. 24-6-402(8)
- Courts may compel executive sessions to be opened if the discussion does not stay within scope. c.R.s. 24-72-204(5.5)
- Prevailing challengers may be awarded legal costs and fees. C.R.S. 24-72-204(5.5)

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