

I. New Requirement to Provide Board Packets for Public Inspection

Starting July 1 of next year, boards must make board packets available for public inspection in the board's office at the time they are distributed to board members, but the public version can be a redacted version.

What is a board packet?

- **Documents that are compiled by the board and distributed to board members before a meeting for use at that meeting**
- **Only to the extent public under 92F**
 - o In other words, you're never going to have to **include something in the public** board packet that you wouldn't disclose in a UIPA response
- Not executive session minutes, license applications, or other records the board can't **reasonably redact in time**
 - o **The law potentially allows withholding more stuff from the public board packet than could be withheld in response to a 92F request, in recognition of the shorter timeframe**
 - o **So for instance, a long document with confidential info studded all throughout it, you can just withhold the whole thing**
 - o **A long document with several distinct sections, only some of which are confidential, you'll include the non-confidential sections in the board packet**
 - o A few pages with some confidential info, you'll just redact the confidential info **and disclose the redacted pages**
 - o **If a document is fully public, even if it's a long document, obviously you wouldn't withhold it**

What does the board have to do with it?

- Have it available for inspection in the board's office
- Notify the mailing list that it's available in the office
- Provide "reasonably prompt access" upon request
- Accommodate email or other requests for an electronic copy "as soon as practicable"
- No requirement to mail the packet
- **Also no requirement to automatically email the packet to people on the email list – but if they ask for a copy, again, accommodate the request "as soon as practicable"**

When should a board start making board packets available?

- **It becomes a legal requirement for all boards on July 1, 2018**
- But it's a good idea to start doing this before then
 - o **Work out any technical or procedural kinks**
 - o **Be ready and running when the legal requirement starts**
 - o **No harm to starting early.**

Practical tips

- **Keep this requirement in mind when compiling board packets – i.e. as you put it together think about what will and won't be included in the public packet**
- **As each board packet item comes in, prepare the public version at the same time so you have them all ready to go when the full packet goes out**
- **Have a pdf version of the public packet ready to go**

II. Electronic Notice Is Replacing Paper Filing as the Official Way to Notice a Meeting

Effective July 1, 2018, Sunshine Law meeting notices must be posted on state and county electronic calendars as the official notice of the meeting.

How do you post a notice online?

- **Use state or county online calendar system**
- For state, it's the same one that's up and running currently
- **Counties have own systems and have time before law goes into effect to update them to make online posting easier for boards.**
- **No technical requirements for how the posting has to work, e.g. fillable online form** versus something where you're primarily dragging a pdf on, but IT will want to consider ADA access issue in setting it up (don't want to use an image-only PDF of the agenda as your only online notification)

Do you have to still file a paper copy?

- **Yes and no**
- You do still need to give a copy to the LG or Clerk; doesn't specifically have to be a **paper copy, but that depends on the LG or Clerk**
- **Paper version is no longer the official copy**
- **In other words, if you mess up when sending the copy to the LG or Clerk, you're not going to have to cancel your meeting over it**

- Purpose is so that those people who still want to come by the LG's or Clerk's office to read all the notices can still do that even though they're now courtesy copies **rather than the official filing**
- **The LG or Clerk is still responsible for posting the notices in a central location, such as the Capitol basement or a county building**
- **That could mean either all the paper copies pinned to a bulletin board, or an electronic monitor that cycles through the notices**

Does this change the mailing list requirement?

- **Postal mailing list is still going to be there as before**
- **But now the email mailing list is going to be legally enforceable like the postal list, i.e. if you send the email notices late and someone complains you'll have to cancel the meeting, just like currently can happen with a late postmark**
 - o **A lot of boards have been running an unofficial email list for years and are used to thinking of the email list as the no-harm-no-foul list, where if you sent the email 4 days ahead instead of 6 days ahead it wasn't a big deal**
 - o **It's important to realize that the email list is now going to have a firm deadline just like the postal list**
 - o **Tip: To avoid typos in email address, have a way for requesters to sign themselves up online for emailed notices and input own address: mistakes in the email address won't be board's fault, minimize potential for complaints / cancellation**
- **A person can choose whether to be on the postal list or the email list**

What if someone questions when the agenda was filed?

- **The electronic calendar records when an agenda was posted and a printout of the time and date of posting will show when the filing took place**

When should a board start filing electronically?

- **It becomes a legal requirement for all boards on July 1, 2018**
 - o **State boards are already supposed to be posting on the electronic calendar per executive memo**
- **But it's a good idea to start doing this before then**
 - o **Work out any technical or procedural kinks**
 - o **Be ready and running when the legal requirement starts**
 - o **No harm to starting early.**

Meeting minutes may be kept in recorded form, and must be posted online

Two significant parts to this new law affect meeting minutes

- **All meeting minutes will now have to be posted online**
- **Boards will now have the option to do either**
 - o **Written minutes as they've always done, or**
 - o **An audio or video recording of the meeting accompanied by a written summary**

Where are the minutes supposed to be posted online?

- It can be either on the board's own website, or on a general state or county website.
- **So, the board is not required to have its own website – a county or state department could post these for attached boards, for instance**
- **But if the board has its own website, that can be the place where it's posting the minutes online**

How long do you have to get the minutes online?

- **Boards have up to 40 days after the meeting to have the minutes online**
- **Compare this to the former deadline of 30 days after the meeting to have minutes 'available to the public'**
- **The time period is 10 days longer in recognition of the additional time that will be needed from when the minutes have been fully prepared, to when they are actually online**
 - o **Many boards need to go through an IT office or other web administrator to make changes to their websites, so turnaround can take a few days**
 - o **Boards will want to run an accessibility checker on the completed minutes to make sure they're posted in ADA-accessible format**
- **Since the previous deadline was to have minutes "available," rather than to affirmatively post or send them out, members of the public had to request the minutes after the 30-day mark and then wait for the board to provide them – so having them available online 40 days out may actually be faster, in addition to easier, for the public**

Are boards required to record their meetings once this law goes into effect?

- **No. Boards can keep on doing written minutes the same way as before, and will not be required to record the meetings, keep a copy of a recording, or post a recording online**
 - o **Even if a board does make a temporary recording to use in creating the written minutes, as long as the board is keeping and posting its written minutes it won't be under any obligation to keep those temporary recordings or to post them online**
 - o **And as is the case currently, a board doesn't have to record its meetings at all; it can use detailed written notes taken during the meeting to create its written minutes**

What kind of recording can you use for recorded minutes?

- **Can be analog or digital**
- **That means anything from tape or film to digital voice recorder / cell phone camera / digital camcorder**
- **But remember, you've got to post it online, so making a digital recording in the first place is probably your easiest bet**

What do you need to include in the written summary?

- **Time, date, and place of meeting**
- **Members present / absent, and when they arrived or left**
- **For all motions or votes, the vote for / against by member**
 - o **Remember, if it's unanimous and the written summary already reflects who's present at the time, you can just say unanimous in favor, no abstentions, rather than listing all the members as voting aye**
- **A time stamp or other reference indicating when in the recording the board began discussion of each agenda item and when motions and votes were made by the board**
 - o **There is software you can use to create this while taking notes at the meeting**
 - o **For instance, OneNote, part of the Microsoft Office package that the state agencies are using, allows someone to easily add a time stamp or a link to a spot in an audio recording to their written notes – ETS can train on this**
 - o **If you're trying to recreate it after the meeting, someone may have to listen to the entire recording and note when in the recording each topic of discussion begins**
- **So what *don't* you have to include in the written summary – how is this better than regular written minutes?**

- **The big thing left out of the written summary requirements is need for the substance of all matters discussed or decided and the requirement to give a true reflection of what was discussed and the views of the participants**
- **In other words, the summary doesn't have to transcribe or paraphrase all the discussion that took place during the meeting**
- **So while you will have to get used to adding that time stamp to index when each part of the discussion begins, you won't have to try to write up what everyone said throughout the meeting**

When should a board start posting its minutes online?

- **Online posting becomes a legal requirement for all boards on July 1, 2018**
- **But it's a good idea to start doing this before then**
 - **Work out any technical or procedural kinks**
 - **Be ready and running when the legal requirement starts**
 - **No harm to starting early.**

When should a board start doing its minutes in recorded format, if it prefers that format?

- **For this change to the law, boards should *not* start doing it early**
 - **Or at least, not unless the board is also keeping regular written minutes**
- **Until July 1, 2018, the Sunshine Law requires that board minutes be in written format as they've always been**
- **The option to *not* keep written minutes with all the currently required information, and instead have minutes consisting of a recording accompanied by a written summary, doesn't become legal until next July 1**
- **If your board wants to do recorded minutes, you can start looking now at how to record the meetings, and practice adding the time stamps, but keep doing written minutes until next July**

Thank you for your interest and attention

- **questions now**
- **also can call / email OIP**