

Public Policy Brief

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Michigan Open Meeting Act Decision Tree

Bringing
Knowledge
to Life!

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This pamphlet is designed to help local officials and citizens answer the following two questions:

1. Is a body, organization, or other meeting subject to the Michigan Open Meeting Act?
2. If so, can part of that open meeting be closed to the public?

The flow chart, or decision tree, which starts on page two of this pamphlet, is based on P.A. 267 of 1976, as amended, (Michigan Open Meeting Act, M.C.L. 15.261 *et seq.*), Michigan Attorney General Opinions, and case law established by Michigan courts.

This is a decision tree. It can be used by starting with the question in the upper left box of page two. Answer each question as it applies to the meeting, group, or organization. To the right, bottom, and sometimes top, of the box is an answer in the form of “yes” or “no” with arrows (→, ↓, and ↑) leading one to the next box. Then answer the question in the next box, and so on. On page two, the boxes in the middle column contain additional information rather than a question.

Page two addresses the question if the meeting is subject to the Open Meeting Act. If it is, that means the meeting must be posted, (M.C.L. 12.264 and 15.265) and one must provide a subscription for mailing notices to those requesting them (M.C.L. 15.266), the meeting is held in a location available to the public (M.C.L. 15.263(1)), there is a public comment period provided for during the meeting (M.C.L. 15.263(5)), minutes of the meeting are taken (M.C.L. 15.269), and the draft of the minutes are available to the public within eight business days of the meeting (M.C.L. 15.269(3)).

Page three and four present a series of questions to determine if a particular agenda item can be discussed during a closed (to the public) portion of the public meeting.

There are some exceptions to the requirement that meetings comply with the Open Meeting Act (M.C.L. 15.263(7-11)). Those details are not covered in this pamphlet.

Michigan State University
Extension

Land Use Team

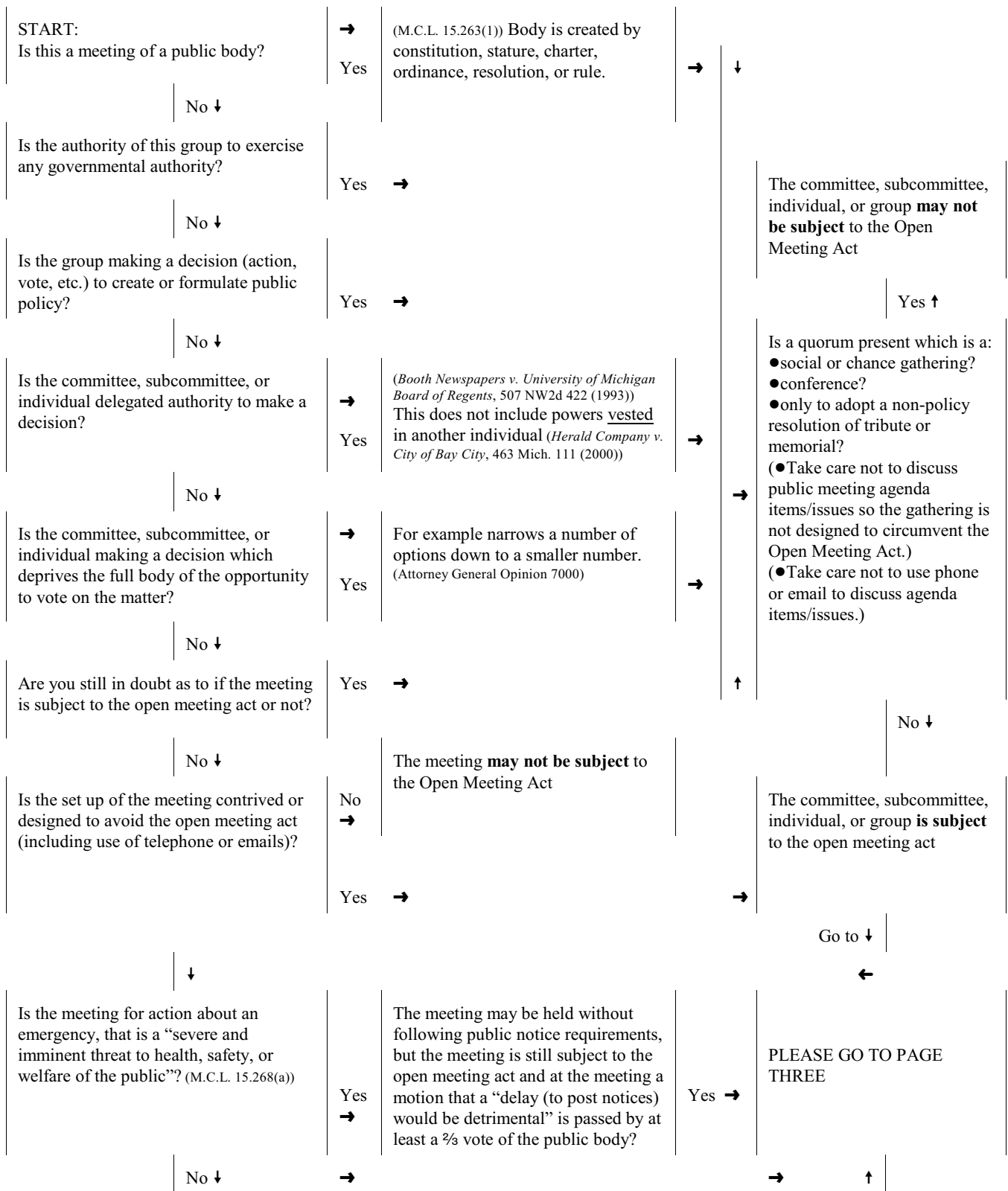
<http://ntweb11a.ais.msu.edu/luaoe/index.asp>

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Is the Body, organization subject to the Michigan Open Meeting Act (M.C.L. 15.261 et seq.)?



Can part of the open meeting be closed to the public?

<p>START (from page one): Is the agenda item to consider the dismissal, suspension, or discipline of, or to hear complaints or charges brought against, or evaluation of a public officer, employee, staff member, or individual agent? (M.C.L. 15.268(b))</p> <p>No ↓</p>	<p>Yes →</p>	<p>Did the named person request a closed session; and has a motion to close that part of the meeting passed by more than ½ vote of the public body?</p>	<p>Yes →</p>	<p>↓</p>
<p>Is the agenda item to consider the dismissal, suspension, or disciplining of a student and the public body is part of a school district, ISD, or institution of higher learning that the student is attending? (M.C.L. 15.268(c))</p> <p>No ↓</p>	<p>Yes →</p>	<p>Did the student or the student's parent or guardian requested a closed session; and has a motion to close that part of the meeting passed by more than ½ vote of the public body?</p>	<p>Yes →</p>	
<p>Is the agenda item to consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained? (M.C.L. 15.268(d))</p> <p>No ↓</p>	<p>Yes →</p>	<p>Has a motion to close that part of the meeting passed by at least a 2/3 vote of the public body?</p>	<p>Yes →</p>	<p>→</p>
<p>Is the agenda item to consult with the public body's attorney regarding trial or settlement strategy in connection with specific pending litigation? (But only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body (M.C.L. 15.268(e).))</p> <p>No ↓</p>	<p>Yes →</p>	<p>Has a motion to close that part of the meeting passed by at least a 2/3 vote of the public body?</p>	<p>Yes →</p>	<p>The session of the meeting may be closed to the public. However only deliberations can take place during closed session. Any voting and action must take place during a public portion of the meeting.</p>
<p>Is the agenda item to review and consider the contents of an application for employment or appointment to a public office? (But all interviews by a public body for employment or appointment shall be at an open meeting) (M.C.L. 15.268(f))</p> <p>No ↓</p>	<p>Yes →</p>	<p>Did the candidate request the application remain confidential and has a motion to close that part of the meeting passed by at least a 2/3 vote of the public body?</p>	<p>Yes →</p>	<p>↑</p>
<p>PLEASE GO TO PAGE FOUR</p>				

<p>START (from page three): Is the agenda item, or meeting, a partisan caucus of the Michigan Legislature? (M.C.L. 15.268(g))</p>	<p>Yes →</p>	<p>Has a motion to close that part of the meeting passed by more than ½ vote of the public body?</p>	<p>Yes →</p>	<p>↓</p>
<p>No ↓</p>				
<p>Is the agenda item to consider material exempt from discussion or disclosure by state or federal statute? (M.C.L. 15.268(h))</p>	<p>Yes →</p>	<p>Has a motion to close that part of the meeting passed by at least a 2/3 vote of the public body?</p>	<p>Yes →</p>	
<p>No ↓</p>				
<p>Is the agenda item for a compliance conference conducted by the department of commerce under section 16231 of P.A. 368 of 1978, as amended, being the public health code M.C.L. 333.16231, before a complaint is issued? (M.C.L. 15.268(i))</p>	<p>Yes →</p>	<p>Has a motion to close that part of the meeting passed by more than ½ vote of the public body?</p>	<p>Yes →</p>	<p>→</p>
<p>No ↓</p>				<p>The session of the meeting may be closed to the public. However only deliberations can take place during closed session. Any voting and action must take place during a public portion of the meeting.</p>
<p>Is the agenda item for part of the process (review the application, interview, discuss qualifications) in searching for and selecting a president of an institution of higher education established under sections 4, 5, or 6 of article VIII of the Michigan Constitution of 1963. (M.C.L. 15.268(j))</p>	<p>Yes →</p>	<p>Does the public body include one student, one faculty member, one administrator, one alumnus, one representative of the general public; does not include a quorum of the governing board; at least five candidates are recommended; the governing board does not act on the recommendations (at a open session) for 30 days after the five candidates are publicly identified; and Has a motion to close that part of the meeting passed by more than ½ vote of the public body?</p>	<p>Yes →</p>	
<p>No ↓</p>				
<p>Is the agenda item to approve the minutes of a closed session?</p>	<p>Yes →</p>	<p>(Approval of minutes is not a “decision” as defined in the Open Meeting Act)</p>	<p>→</p>	<p>↑</p>
<p>No →</p>			<p>→</p>	<p>The session of the meeting may not be closed to the public.</p>

[February 7, 2007; C:\Documents and Settings\Kurt\My Documents\wp\BullitensMSUE Wexford\Open Meeting Act chart.wpd]