



ALABAMA ASSOCIATION OF SCHOOL BOARDS

School Board



Open Meetings & Open Records

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The Open Meetings Act

What is a “meeting”?

- A prearranged gathering of a quorum of the board or committee
 - At a time and place set by law (e.g. annual meeting)
 - To exercise its powers; or
 - To expend of public funds; or
- A gathering, prearranged or not, of a quorum when members deliberate specific matters



Board Interviews

- Superintendent/CSFO Interviews
 - Must be conducted during an open meeting or work session
 - Subject to public notice/public access
- ❖ Limited exceptions for executive session discussions



What is NOT a “meeting”?

- Social gatherings
- Conventions and conferences
- Training programs
- Press conferences and media events
- Association meetings
- On-site inspections
- Meetings with applicants for economic incentives or board assistance
 - There can be no deliberation of specific matters likely to come before the board or committee later

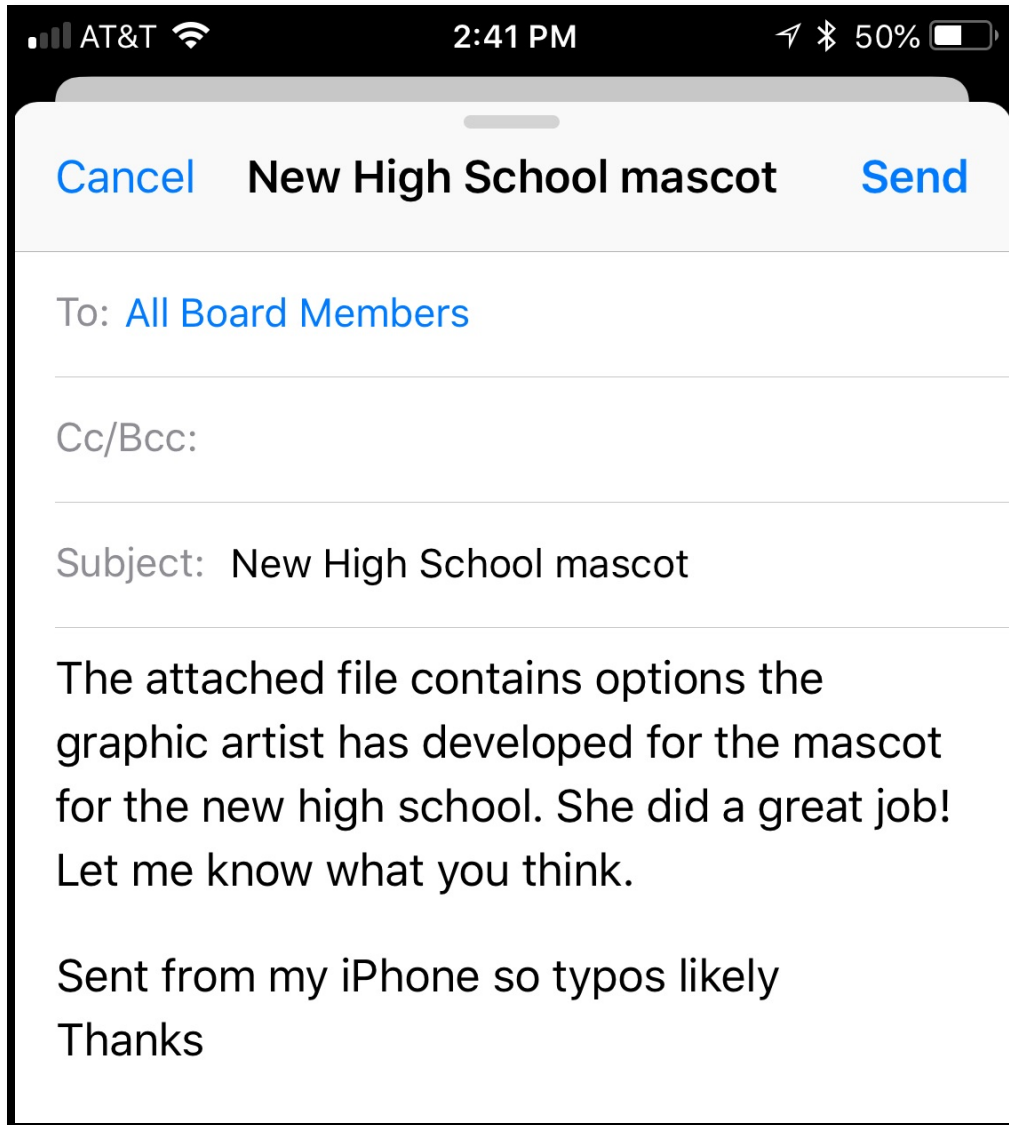


What is NOT a “meeting”?

- A meeting with state or federal officials
 - To report or obtain information; or
 - To seek support
 - Electronic or in person
- Conversations between committee members for sole purpose of exchanging background/education info (even 2 members of 3 person committee) as long as no final decision or recommendation made
- Conversation between superintendent and board member, including deliberation



Mind your email-Scenario 1

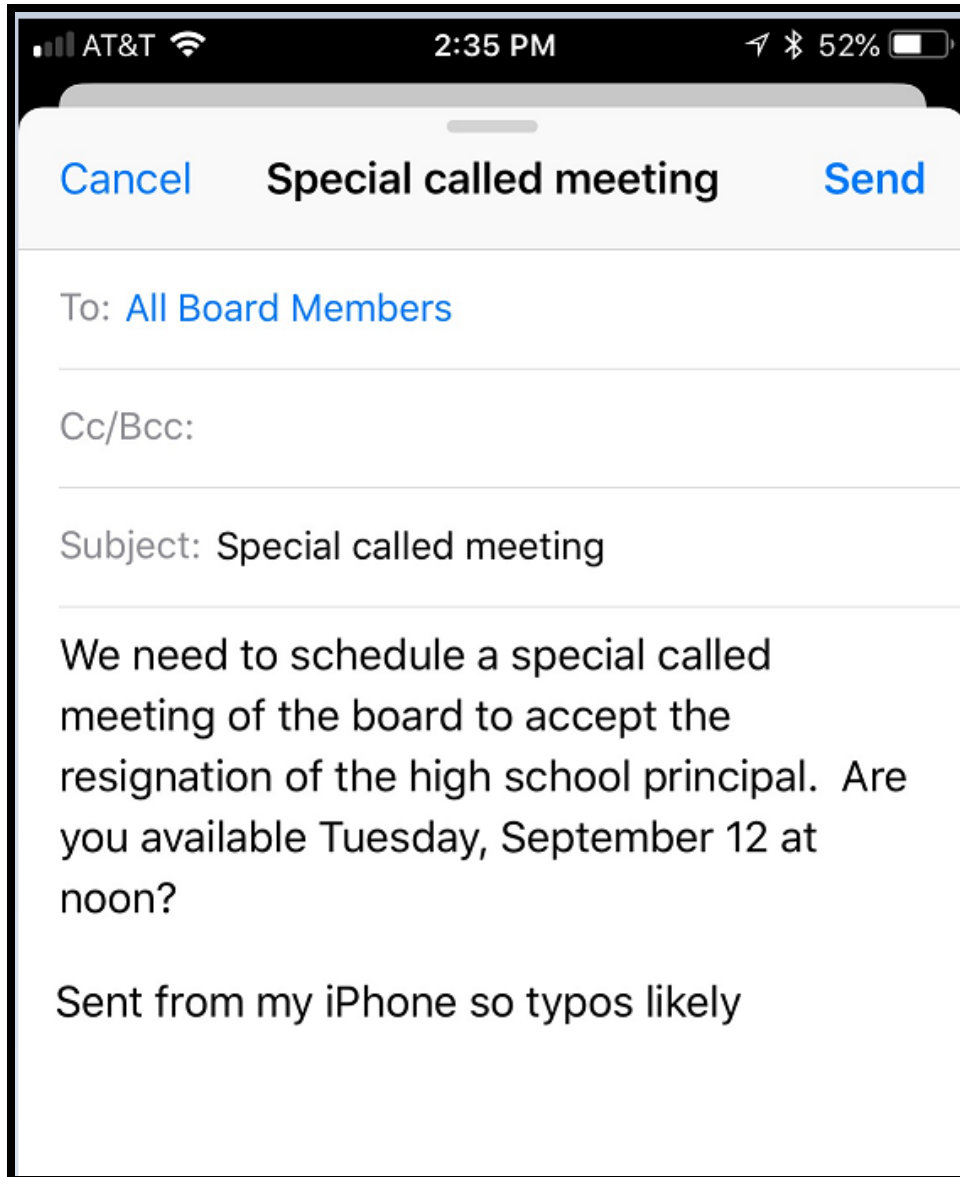


What do you do?

- Reply
- Reply ALL
- Delete email and call the superintendent immediately!



Mind your email-Scenario 2

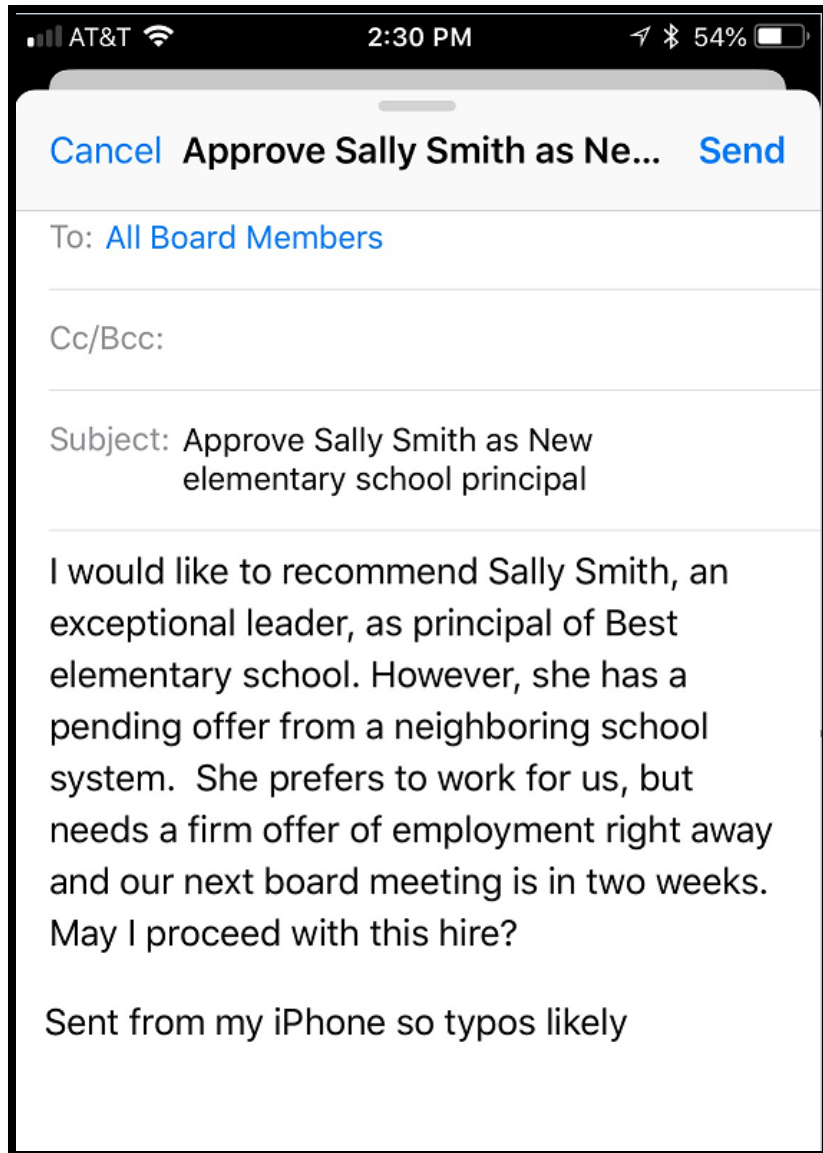


What do you do?

- Reply
- Reply ALL
- Delete email and call the superintendent immediately!



Mind your email-Scenario 3



What do you do?

- Reply
- Reply ALL
- Delete email and call the superintendent immediately!



What is a “deliberation”?

- The exchange of information or ideas; and
- By a quorum of members; and
- To arrive at or influence a decision; and
- To determine how to vote at a later time.



What is a “serial meeting”?

- Gathering of 2 or more members that
 - Less than a quorum, but at least 1 who attends gathering attends another gathering in the series; and
 - Total number constitutes a quorum; and
 - No notice or opportunity for public participation; and
 - Participants deliberate; and
 - Intent to circumvent OMA; and
 - One gathering occurs within 7 days of vote on any matter deliberated.



The Brady Bunch



Brady Board of Education Scenario 1

- August 1
 - Greg, Peter & Bobby camp out
 - Decide they want to fire Alice
 - Send Greg to talk to Marsha
- August 2
 - Greg talks to Marsha who agrees Alice needs to go
- August 5
 - Family meeting held in the living room
 - Alice is fired
- Serial meeting?



Brady Board of Education Scenario 1

- August 1
 - Greg, Peter & Bobby camp out
 - Decide they want to fire Alice
 - Boys send Greg to talk to Marsha
- August 2
 - Greg talks to Marsha who agrees Alice needs to go
- August 5
 - Family meeting held in the living room
 - Alice is fired
- Serial meeting? **YES**



Brady Board of Education

Scenario 2



- August 1
 - Cindy tells Bobby Alice has hidden Kitty
 - Both say she should be fired
- August 2
 - Peter tells Marsha that Alice made fun of his voice changing
 - Both agree she needs to go
- August 3
 - Jan tells Greg that Alice said Marsha is groovy and Jan is a jealous nerd
 - Both agree Alice should go
- August 4
 - Family meeting held and Alice is fired

Brady Board of Education

Scenario 2



- August 1
 - Cindy tells Bobby Alice has hidden Kitty
 - Both say she should be fired
- August 2
 - Peter tells Marsha that Alice made fun of his voice changing
 - Both agree she needs to go
- August 3
 - Jan tells Greg that Alice said Marsha is groovy and Jan is a jealous nerd
 - Both agree Alice should go
- August 4
 - Family meeting held and Alice is fired.
- Serial meeting? **NO**

Brady Board of Education

Scenario 3

- July 1
 - Before bed, the girls decide Alice needs to go.
- August 2
 - While cleaning out the garage, the boys decide Alice needs to go
- August 3
 - Peter tells Jan about the boys' conversation
 - Jan tells Peter about the girls' conversation
 - Both agree Alice should go
- August 15
 - Family meeting held and Alice is fired
- Serial meeting?



Brady Board of Education

Scenario 3

- July 1
 - Before bed, the girls decide Alice needs to go.
- August 2
 - While cleaning out the garage, the boys decide Alice needs to go
- August 3
 - Peter tells Jan about the boys' conversation
 - Jan tells Peter about the girls' conversation
 - Both agree Alice should go
- August 15
 - Family meeting held and Alice is fired
- Serial meeting? **NO**



What is a not a “serial meeting”?

- Gatherings related to certain executive searches until the search has been narrowed to 3 or fewer candidates
 - Must be an SOEI position
- Series of gatherings involving a single board member
- Series of gatherings by trustees of higher ed institutions to fill positions including president, provost, coach, etc.



Notice Requirements

- Must give notice of meetings, including:
 - The time, date & place of meetings
 - The preliminary agenda or general description (as soon as it's available)
- Must post notices on a bulletin board in the Central Office



Notice Requirements

*Board Appointed Committees

- Board-appointed committees are subject to OMA just as full board
 - Public notice required for committee meetings
 - Public access required for committee meetings
- Includes committees made of board members and/or non-board members



Notice Requirements

*Board Appointed Committees

- Examples of committees which must comply
 - Strategic Planning Committee
 - Superintendent or CSFO Search Committee
 - Budget & Finance Committee
 - Capital Improvement Committee



Notice Requirements

*Board Appointed Committees

- ❖ Advisory committee/task force of unpaid volunteers created solely to make recommendations on public policy issues are NOT subject to OMA
- Examples
 - Textbook Review Committee
 - Parent Advisory Committee
 - Student Advisory Council



Notice Requirements

- Notice is not required for:
 - Non-meetings
 - Sessions where the board sits in its quasi-judicial capacity
 - personnel hearings
 - expulsion hearings



Notice Requirements

- Timing of meeting notices:
 - 7 days for a meeting required by law (annual)
 - 1 day for other meeting(s)
 - 1 hour to accept a resignation or in specific emergencies
 - Can only act on emergency items
 - No other actions can be taken



Executive Sessions

- An option
- Should be attended only by board members, superintendent and attorney (if needed)
 - Others *may* be brought in to provide information to the board
- No minutes or recordings



Executive Session Reasons

10 Statutory Grounds:

1. General reputation and character; professional competence; job performance or mental/physical condition
- You must always discuss the job performance and salary/compensation of certain employees in public:
 - Elected or appointed public officials
 - Employee required to file a Statement of Economic Interest



Executive Session Reasons

2. Formal complaints or charges against an individual or legal entity (if another law allows)
3. Potential or pending litigation (with the board's attorney)
4. Negotiations to buy, sell or lease real property
5. Discuss or vote on a public or contested case hearing (quasi-judicial)
6. Discuss security plans and measures



Executive Session Reasons

7. Criminal investigation complaints
8. Preliminary negotiations in trade competition
9. Negotiations between the board and a group of public employees
10. Others allowed by law



Executive Session Procedure

- To go into executive session:
 - Have a quorum present
 - Convene in an open meeting
 - Consider a motion to go into executive session for one of the allowable reasons
 - If required, receive legal opinion that the session complies with the OMA
 - Pass the motion and record each member's vote
 - Announce when the board will reconvene



Executive Session Procedure

- Written or oral declaration is needed if involves:
 - Discussion with the board’s attorney concerning option for and ramifications of litigation, mediation or arbitration
 - Discussions that would disclose the identity of an undercover informant or that focus on criminal investigations of non-public officials
 - Discussions concerning negotiations between the board and an employee group
 - Discussions that would violate the Trade Secrets Act



Violation of the OMA

- The board may be sued by the district attorney, the attorney general, the media or any citizen impacted greater than the general public
- Reasons for suit include:
 - Failing to give proper notice
 - Disregarding provisions of the act in a public meeting or in some other way
 - Discussing matters outside the scope in executive session



Violation of the OMA

- Penalties:
 - \$1 to \$1,000 or half of each board member's monthly board salary, whichever is less
 - ***cannot be paid by the board
 - Possible invalidation of action taken by the board as a result of the illegal meeting





The Open Records Act

What documents are “public”?

“All written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by public officers of the state...and other subdivisions of government in the transactions of public businesses.”

May be:

- Financial Records
- Résumés and applications
- Audit reports



Exceptions

- Recorded information received by a public officer in confidence
- Sensitive personnel records
- Pending criminal investigations
- Records the disclosure of which would be detrimental to the public's best interest





Questions?