

## PIMA COUNTY PUBLIC LIBRARY ADVISORY BOARD MEETING MINUTES

November 2, 2023 4:00 p.m.

Meeting was held both at Joel D. Valdez Main Library, 4th Floor Boardroom,  
101 N. Stone Ave, Tucson, Arizona and virtually via Microsoft Teams

Present: Mary Ann O'Neil, Chair; Maria Iannone, Vice-Chair; John Halliday; Craig Kleine; Mariana Padias; and Rebecca Téllez Peralta

Absent: Barbara Blake; Lorraine Marquez Eiler; and Elizabeth Soltero

Also Present: Karyn Prechtel-Altman, Deputy Director; Marissa Alcorta, Deputy Director; Em DeMeester-Lane, Library Services Manager; Kate DeMeester-Lane, Library Services Manager; Beth Matthias-Loghry, Library Services Manager; Alina Rowe, Library Services Manager; and Holly Schaffer, Community Relations Manager

Guests: Kyle Johnson, County Attorney; Tom Cashman, Pima Library Foundation; and Kylie Walzak, Board of Supervisors Senior Aide, District 2

### 1. CALL TO ORDER: PLEDGE OF ALLEGIANCE & LAND ACKNOWLEDGEMENT STATEMENT

Meeting was called to order at 4:04 p.m. by Mary Ann O'Neil and the Pledge of Allegiance was recited. Mary Ann O'Neil read PCPL's Land Acknowledgement Statement.

### 2. CALL TO THE PUBLIC

No members of the public spoke.

### 3. APPROVAL OF PREVIOUS MEETING'S MINUTES

John Halliday moved and Maria Iannone seconded approval of the September 7, 2023 minutes. Motion carried.

### 4. INTRODUCTIONS

Introductions were made around the room.

### 5. SUMMARY OF CURRENT EVENTS BY LIBRARY BOARD MEMBERS

Board members updated on Library-related activities they have been doing since the last meeting. Some of the responses included:

John Halliday and Maria Iannone met with Supervisor Scott and his assistant, Kate Hiller. They found their office to be supportive of the Library, which at this time, took interest in non-traditional services such as the Seed Library, the blood pressure kit loaning program, and Career Online High School. They were also up to date on nationwide censorship issues, and support the freedom to read.

**6. FRIENDS GROUPS AND LIBRARY FOUNDATION REPORTS ON EVENTS AND FUNDRAISING ACTIVITIES ON BEHALF OF THE PIMA COUNTY PUBLIC LIBRARY**

Tom Cashman, Executive Director of Pima Library Foundation, reported that they will be doing two more outreach and mailings towards the end of the year. They are hoping to introduce new people to the Foundation or to the Library.

**7. NEW BUSINESS**

**A. OPEN MEETING LAW TRAINING**

Kyle Johnson, Deputy County Attorney, provided a training on Open Meeting Law. See Appendix A for presentation slides.

John Halliday asked about the Library Board's quorum and if six people were required to meet it. Kyle Johnson replied that if the Library Board's bylaws required six, that was correct, but that the bylaws could be changed to reflect a majority of seated members.

**B. COLLECTION DEVELOPMENT POLICY FOLLOW UP —Kate DeMeester-Lane**

Kate DeMeester-Lane asked Library Board members how it went talking with Supervisors about the Collection Development Policy proposed changes since the last meeting.

District 1: John Halliday and Maria had no concerns with the proposed updates, met with Supervisor Scott's office and reviewed the material in the packet in detail. They found it to be well-drafted, and expansive in its coverage, and had no additions.

District 2: Mariana Padias and Mary Ann O'Neil had no concerns with the policy changes. They met with Supervisor Heinz's staff, who relayed their thanks to Library staff for their work on the policy, and said they had no reservations.

District 3: Craig Kleine hasn't scheduled a meeting with Supervisor Bronson yet, and Kate DeMeester-Lane said that the Library can help with reaching out.

District 4: No attendees representing District 4 were at the meeting.

District 5: Rebecca Téllez Peralta has not met with Supervisor Grijalva yet and will try to get together with Elizabeth Soltero to set up a meeting.

Kate thanked everyone for their input and for contacting their Supervisors.

**8. LIBRARY REPORTS**

**A. COMMUNITY RELATIONS REPORT**

Holly Schaffer, Community Relations Manager, highlighted and/or added to her written report.

- Holly Schaffer is currently working on the Annual Report for FY 2022/23 and is writing about the letters the Library has received from people who are incarcerated. Last year, PCPL answered 3,896 letters from people in prisons and jails across Arizona. She read an anonymous letter of appreciation to the Library that will be included in the report.
- November is Indigenous Heritage Month and PCPL has posted blogposts and resources on the website.

**B. COMMUNITY ENGAGEMENT REPORT**

Karyn Prechtel-Altman, Deputy Director of Community Engagement, highlighted and/or added to her written report.

Deputy Director Prechtel-Altman informed that PCPL has expanded existing partnerships over the past couple months. The first one is with the Pima County Department of Environmental Quality (PDEQ), which has a large grant for a climate plan. They put out a survey, and because of the great reach the Library has, they wanted PCPL's help. Going forward, the Library will have programs related to climate issues.

PCPL's partnership with Pima Animal Care Center (PACC) is expanding greatly. The Library had some issues distributing free food at a couple of branches because of pests, and Facilities asked the Library to stop. PACC appreciates the reach PCPL has so they decided to bring a mobile unit to distribute food. They will also be able to do microchipping and distribute more items, such as leashes and collars.

County Communications reached out to the Library because PACC has a huge Spanish outreach plan to the Latinx community. They have a program called RTO (Return to Owner) and chipping animals is a huge part of that. The Library will help to promote this program, and will also have several events on the southside in 2024 that will offer microchips, pet food and other resources and possibly the mobile medical units, as well as related programming.

Make Way for Books wants to expand their Story School program, which is their 0-5 early literacy program for children and caregivers, and want to do this in libraries. They will bring this program to several libraries where the children can graduate into library programming.

John Halliday asked where the PACC van will be stopping and Deputy Director Prechtel-Altman responded that it will continue at the Richard Elías-Mission Library and Joel D Valdez Main Library, and after January, it will expand to other libraries on the southside, targeting the 85706 and 85713 zip codes.

**C. PUBLIC SERVICES REPORT**

Marissa Alcorta, Deputy Director of Public Services/Customer Experience, highlighted and/or added to her written report.

Deputy Director Alcorta provided a hiring update. Interviews are being set up for Library Technical Assistant Supervisor positions. Recruitments will be coming up for Librarian III, Librarian II, and Deputy Director for Support Services positions.

Public Services is starting to have discussions with branch managers and staff about looking at how PCPL can change and flex some of the branch hours. The community is asking for more weekend hours and possibly later evening hours. Under consideration is more Saturdays, possibly Sundays, or staying open until 7:00 pm. They've been having in-person strategic collaborative meetings to figure out what can be done, while considering staff levels, as well as being able to meet community needs. The goal is to have this take effect in the new year.

Deputy Director Alcorta recently attended the 2023 ULC Annual Forum in Seattle. She attended some great sessions, including the potential of AI in Libraries, How to Embrace Uncertainty, Libraries as a Place, and participated in discussions around intellectual

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freedom, book banning, and censorship. She found it useful to connect with other library professionals around the country, and to know that they are going through similar changes and difficulties as PCPL.

Programming is going full steam ahead. PCPL has been seeing increasing participation in early childhood literacy programs and adult literacy programs, especially English classes.

Mary Ann O'Neil asked how the requests for more hours from the community were coming in, and Deputy Director Alcorta responded that the branches get them, phone calls come to Library Administration and Ask A Librarian, and sometimes County Administration receive them.

John Halliday asked how staffing was doing, Deputy Director Alcorta responded that the Library has some vacancies but are chipping away at them. PCPL has to be intentional with what can actually be done to balance what staff can do with community needs. Staffing is always a struggle, and being at the conference recently, she heard that it is the same across the board, and the number one thing libraries struggle with.

### **D. SUPPORT SERVICES REPORT**

Michelle Simon, Deputy Director of Support Services, was not in attendance. There were no requests for updates.

### **E. LIBRARY DIRECTOR'S REPORT**

Amber Mathewson, Library Director, was not in attendance.

Mariana Padias asked if any employees used the process to contest the results of the Classification and Compensation study for their position, and if so, what the results were. Deputy Director Prechtel-Altman responded that many did, and that Director Mathewson also requested whole classifications to be changed. There haven't been a lot of results yet, and there should be more information for the next meeting.

## **9. ADJOURNMENT**

Maria Iannone moved and Mariana Padias seconded adjournment of the meeting. Motion carried and meeting adjourned at 5:15 p.m.

**Next Meeting:** December 7, 2023, at 4:00 p.m.

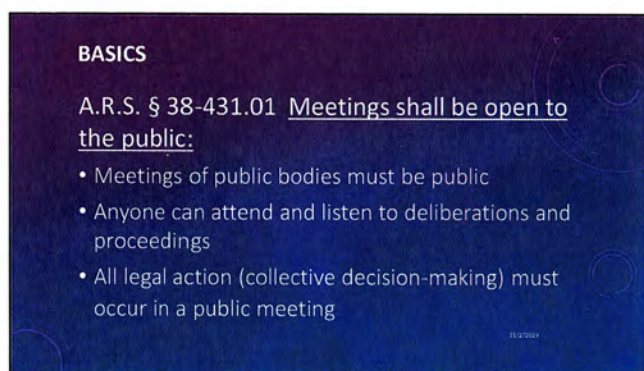
Submitted by:  
Judy Moses  
Administrative Specialist III



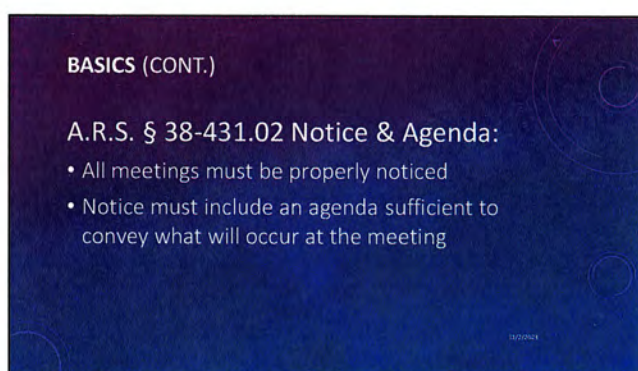
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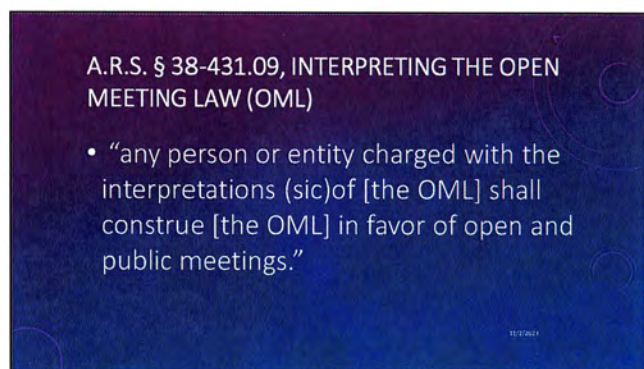
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## ADVISORY COMMITTEES AND SUBCOMMITTEES

A.R.S. § 38-431(1) Advisory Committee or Subcommittee

- Officially established
  - on motion or order of public body; or
  - by presiding officer
- Specific purpose = make recommendation to public body for some action

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## WHAT IS A MEETING?

- A.R.S. § 38-431(4)
  - Any gathering of a quorum
  - In person *OR* through technological devices
  - At which legal action is:
    - Proposed
    - Discussed
    - Deliberated
    - Taken

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## WHAT IS A MEETING? (CONT.)

## Quorum:

- A.R.S. § 1-216(B) Quorum means "a majority of a board or commission."
- This has been interpreted to mean a majority of the total number of members set forth in law or in the board or commission's by-laws. 3 of 5 Committee members.

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## WHAT IS A MEETING? (CONT.)

## Legal Action, A.R.S. § 38-431(3), means:

- "a collective decision, commitment or promise
- made by a public body
- pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state"

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## WHAT IS A MEETING? (CONT.)

Meeting includes an exchange of electronic communications:

- among a quorum of the members of a public body that involves
  - discussion,
  - deliberation,
  - or the taking of legal action
- by the public body
- regarding a matter likely to come before the public body for action.

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## WHAT IS A MEETING? (CONT.)

Meeting – includes a one-way electronic communication by one member:

- sent to a quorum of the members of a public body, and that
- *proposes* legal action.
- "I think we should support Option 3."

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**EXCEPTION: COMMUNICATIONS WITH THE MEDIA**

A.R.S. § 38-431.09(B): Not a violation of OML for member to personally express an opinion or discuss an issue with the public through the media, other form of public broadcast communication or through technological means IF:

- Not principally directed at or directly given to another member
- No concerted plan to engage in collective deliberation to take legal action

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**OML REQUIREMENTS**

- Notice
- Agenda
- Public Attendance
- Meeting Minutes

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**NOTICE****Public body must:**

- Conspicuously post a statement on its website stating where all public notices of their meetings will be posted, including:
  - physical location where public has reasonable access
  - electronic locations
- Post all public meeting notices on its website and give additional public notice as is reasonable and practicable as to all meetings.

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**NOTICE OF MEETINGS**

A.R.S. § 38-431.02(C)

- At least 24 hours prior to start of meeting
  - Includes Saturday -- IF building is accessible
- Given to:
  - Members of the public body
  - General public
- Except:
  - Recess and resume within 24 hours (at a time certain!)
  - Actual emergency: within 24 hours after the meeting
  - Ratification of past action: at least 72 hours prior to start of meeting

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**NOTICE OF MEETINGS**

- Must include:
  - Name of Public Body
  - Date
  - Time
  - Place (Address & Room Number; Website for virtual meetings)
  - Agenda

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**NOTICE FOR REMOTE MEETINGS**

ATT'Y GEN. 3-13-20 LETTER

- Both the Statement of Posting and Notice of Meetings should
- Clearly state that a meeting will be held remotely through technological means (and not at the usual physical location)
  - Provide the website location for the video conference and directions for accessing the meeting
  - Provide a conference call number for telephonic participation
  - Provide technical support for questions, concerns, or difficulty accessing a meeting

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**AGENDAS**

A.R.S. § 38-431.02(H)

**Contents:**

- List specific matters to be discussed, considered, or decided at the meeting
- Provide information reasonably necessary to inform the public and the members
- When in doubt, provide more detail

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**AGENDAS (CONT.)**

Public body may discuss, consider, or make decisions only on:

- Matters listed on the agenda
- Other matters related "thereto"

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**AGENDA PITFALLS**

- Incomprehensible:
  - Legalese
  - Acronyms
  - Technical Terms
- General "non-descriptive" categories
  - New business
  - Old business
  - Personnel
  - Announcements
  - Reports
  - Open Discussion
  - Training

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**ONE GENERAL CATEGORY -- CURRENT EVENTS**

A.R.S. § 38-431.02(K)

- Specificity on agenda not required
  - Presentation by:
    - Chief administrator
    - Presiding officer
    - Member
  - About current events
- Provided:
  - "Current events" is an agenda item
  - Public body does not propose, discuss, deliberate, or take legal action
- Not a catch-all to present items that weren't properly agendized

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**PUBLIC ATTENDANCE**

A.R.S. § 38-431.01(A), (F), AND (H)

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>▪ Public's rights:               <ul style="list-style-type: none"> <li>• Attend</li> <li>• Listen</li> <li>• Tape record</li> <li>• Videotape</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>▪ No right to speak except if allowed/required by statute</li> <li>▪ "Call to the Public" is optional</li> <li>▪ May not disrupt proceedings</li> </ul> |
|--|--|

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**PUBLIC ATTENDANCE (CONT.)****The public body cannot:**

- 1) Require the public to sign an attendance sheet (except a member of the public who wishes to speak at the meeting may be required to register, as it complies with minute-taking requirements);
- 2) Hold meetings in remote locations or places where public access is prohibited;
- 3) Hold meetings in rooms that are too small to accommodate the public that wishes to attend; or,
- 4) Conduct meetings at unreasonable times.

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**CALL TO THE PUBLIC**

A.R.S. § 38-431.01(H)

- Optional, not mandatory
- Time, place, and manner restrictions allowed:
  - Limit speakers' time (e.g. every speaker limited to 3 minutes regardless of viewpoint)
  - Ban repetition (e.g. one speaker per group)
  - Prohibit disruptive behavior

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**CALL TO THE PUBLIC (CONT.)**

- If issue is not on agenda, members cannot:
  - Discuss
  - Enter into dialogue with speaker
- At end of call to audience, members may:
  - Instruct staff to study the matter raised
  - Place the matter on a future agenda
  - Respond to personal criticism

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**PUBLIC PARTICIPATION IN VIRTUAL MEETINGS**

ATT'Y GEN. 03-13-20 LETTER

To ensure meaningful attendance at virtual meetings:

- Ask members of the public body, staff, presenters, and public to identify themselves when speaking
- Ask all participants to mute microphones/phones when not speaking
- Include copies of presentations, documents, etc. that will be discussed at a meeting with the agenda, and post any information relevant to the meeting on the website
- Record the meeting.

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**EXECUTIVE SESSIONS**

A.R.S. § 38-431.03(A)

- Nine statutory exceptions to conducting business in public:
  - 1) Personnel matters
  - 2) Confidential Records
  - 3) Legal Advice
  - 4) Litigation, contract negotiations, and settlement discussions
  - 5) Employer salary discussions
  - 6) International, interstate, and tribal negotiations
  - 7) Purchase, sale, or lease of real property
  - 8) School safety operations, plans, or programs
  - 9) Security plans or procedures impacting the security of safety of public facilities, operations, critical infrastructure, and information technology

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**EXECUTIVE SESSION LIMITATIONS**

- A.R.S. § 38-431(2) -- Only people allowed:
  - Members of the public body
  - Person subject to the personnel discussion
  - Auditor General
  - Person "whose presence is reasonably necessary"
  - Clerk to take minutes
  - Attorney for the public body for legal advice or instruction
- Minutes required – but confidential (A.R.S. § 38-431.03(B))

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**MINUTES**

A.R.S. § 38-431.01

Minutes must be kept and made available to the public:

- May either be written or recorded (audiotape or video);
- Must be available for public inspection within three (3) working days of the meeting (within ten (10) days for subcommittees and advisory committees);
- Must be reduced to a form readily accessible to the public. For example, making the recording available to the public on its website would meet the accessibility requirement, but shorthand notes would not.

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**MINUTES (CONT.)**

Minutes must include:

- 1) The date, time, and place of the meeting;
- 2) The members present or absent;
- 3) A general description of the matters discussed or considered (even where no formal vote is taken);
- 4) An accurate description of the legal actions proposed, discussed, or taken.
  - a. The names of the members making and seconding each motion; and
  - b. How each member voted;

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**MINUTES (CONT.)**

- 5) The names of each member of the public addressing the public body and the specific legal action to which the comments are related;
- 6) The identity of the member(s) in attendance via telephone or other electronic medium;
- 7) the identity of other persons participating by telephone and a description of the procedures followed to assure public access to all communications during the meeting;
- 8) A full description of the nature of the emergency that precipitated an emergency discussion of items not on the agenda; and,
- 9) A copy of the required disclosure statement, when a prior act is ratified.

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**OPEN MEETING PITFALLS**

- Serial Meetings
- Splintering of the Quorum
- Spoke & Wheel Meetings
- Email Meetings
- Social Gatherings

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**SERIAL COMMUNICATIONS AMONG A QUORUM**

- Statements communicated by one member to another, who in turn communicates the statement to another member, and so on.
- If the total number of members involved is  $\geq$  quorum, there has been a "meeting"
- If the communications were not on an agenda of a noticed public meeting = violation of the OML

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**SPLINTERING & POLLING**

- "Splintering the quorum" or "polling" is not allowed. These practices occur when individual members have separate or serial discussions with a majority of the members and tell the information received from each member to the other members.
- Avoid even the appearance of impropriety in this regard.

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**SPOKE & WHEEL: COMMUNICATIONS THROUGH STAFF & OTHERS**

- Member cannot use staff to circumvent law (A.R.S. § 38-431.01(i))
- Staff or other person who knowingly helps evade compliance – subject to sanctions [A.R.S. § 38-431.07(A)]

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**BOTTOM LINE:**

It is a violation of the Open Meeting Law to conduct discussions and/or deliberations even between less than a quorum of members if the purpose of the discussion is to circumvent the purposes of the Open Meeting Law.

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**E-MAIL**

Ariz. Attorney Gen. Op. I05-004, codified in 2018 in A.R.S. § 38-431(4)(b):

- Cannot use email or other electronic communication platforms to:
  - Propose legal action
  - Discuss legal action
  - Deliberate legal action
  - Take legal action

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**E-MAIL (CONT.)**

- Evidence Made Available In Litigation
- E-mail among a quorum = "meeting" & potential violation
- Passive receipt of e-mail from staff OK
  - If a member's response limited to the staff person
  - "Reply All" is problematic
  - May not use staff to evade compliance
  - Include a reminder to members in email communications:
    - "To ensure compliance with the OML, recipients of this message should not forward it to other members of the Committee. Members of the Committee may reply to this message, but they should not send a copy of their reply to other members."

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**SOCIAL GATHERINGS**

Events or social gatherings could become a meeting:

- If a quorum of members of the public body are at the same event or social gathering, they must be very careful not to discuss anything that is even remotely (or tangentially) related to the business of the public body.

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**RATIFICATION**

A.R.S. § 38-431.05

Action taken in violation of OML = null and void

- Must ratify to make valid
- Ratify within 30 days of discovery or when violation should have been discovered
- Ratification does not cure OML violations

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**RATIFICATION**

A.R.S. § 38-431.05

Notice 72 hours prior to meeting:

- Describe action to be ratified
- State intent to ratify prior action
- Where public can obtain detailed written description
- All deliberations, consultations and decisions by members of the public body that preceded and related to such action

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### PENALTIES FOR OML VIOLATIONS

- Unless timely ratified, any actions taken in a meeting which was conducted in violation of the provisions of the Open Meeting Law are null and void.
- The Court may order that a meeting be open to the public.
- A member of the public, the attorney general, or the county attorney may bring suit for an OML violation and the Court may order compliance or prevent a violation from occurring.

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### PENALTIES FOR OML VIOLATIONS

A.R.S. § 38-431.07(A)

#### Civil Penalties:

- The court may impose a civil penalty against a member who knowingly violates the open meeting law and anyone that aids, agrees to aid or attempts to aid in the violation.
- There is no monetary penalty for the first offense.
- The Court may impose a penalty of up to \$500 for the second offense and up to \$2,500 for the third and any subsequent offense.

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### PENALTIES FOR OML VIOLATIONS

A.R.S. § 38-431.07(A)

#### Attorney's Fees:

- The Court may award a successful plaintiff reasonable attorney's fees. The appropriate political subdivision will pay the fees, except as set forth below.

#### Removal from Office:

- If the court determines that an individual violated the law with the intent of depriving the public either of information or opportunity to be heard the Court may remove the person from office and must assess the person with all costs and attorney's fees awarded to the plaintiff.

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### PENALTIES FOR OML VIOLATIONS

A.R.S. § 38-431.07(B)

#### The public body *may not*:

- Pay a fine assessed against a member or other individual; or
- Hire counsel or expend monies for legal services to defend against OML challenges, unless it has specific legal authority to do so. If so authorized, the retention rate and expenditure must be approved in a properly noticed open meeting, before any obligation is incurred.

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### BOTTOM LINE:

- Focusing on transparency keeps you out of trouble
- It also builds public trust in what you do

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### OML RESOURCES

Each member of a public body established in Pima County must review the open meeting law materials at least one day before the day the person takes office. A.R.S. § 38-431.01(G).

- Clerk of the Board's website  
[http://webcms.pima.gov/government/clerk\\_of\\_the\\_board](http://webcms.pima.gov/government/clerk_of_the_board).
- Arizona Attorney General Agency Handbook  
<https://www.azag.gov/outreach/publications/agency-handbook>

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