

Meeting Minutes
SOUTH DAKOTA COSMETOLOGY COMMISSION

In person or via Microsoft Teams
Monday, June 16, 2025 12:30 p.m. CDT

The meeting was called to order at 12:28 p.m. CDT. Sanner called the roll. A quorum was present.

Commissioners
Present: Renee Graf
Karma Sanner
Trish Bates
Jason Pettigrew

Others Present: Tyler Evins, Program Director
Jennifer Doubleddee, DLR Attorney
Angela Taylor
Danielle Bouwman
Misty Fish
TSPA Cosmetology Program
Holly Keszler
Stewart School
Anna Malcolm
Kelli Ford
Representative Tessa Schwans
Cami Bloomgren
Wendy Johnston
Zarah Wilsey

Evins requested that agenda items H & M be stricken from the meeting agenda. There were no objections.

Sanner made a motion to approve the agenda as amended. Pettigrew seconded the motion.
MOTION PASSED.

Bates made a motion to approve the June 2, 2025, meeting minutes. Sanner seconded the motion. **MOTION PASSED.**

Evins shared information about the new 'Bulletin Board' page on the website and upcoming Facebook page. These will be used to communicate licensing and operational changes to licensees. Evins discussed the fee increases that will go into effect on July 1, 2025. The Full-Time inspector position will be posted at the beginning of the fiscal year. Evins shared the office can still accept work experience credit for reciprocity applicants. Evins shared the pass/fail rate for the theory examination. The failure rate was much higher than expected.

Sanner and Bates formed an examination committee to brainstorm solutions to the high failure rate for the theory examination.

Sanner reported that the cash center balance was \$178,776.74 on June 7, 2025.

Kelli Ford shared her thoughts about barbers offering dermaplaning services. Ford was grateful to the Commission and felt the fee upcoming increases were modest and necessary.

Representative Tessa Schwans expressed her agreement with the changes the Commission is making as long as they make sense to licensees and do not complicate the licensure process. Schwans shared she is considering legislation for tiered esthetics and reciprocity requirements.

Cami Bloomgren from The Salon Professional Academy shared her concerns with receiving examination results, transcript audit reports for students, and the processing timeline for student licensure applicants with background check concerns.

Wendy Johnston, from The Salon Professional Academy, discussed the 90-day temporary license that used to be issued to instructors and how the school used the time to train new instructors.

Zarah Wilsey, from The Salon Professional Academy, asked about a grace period for initial instructor licenses that were issued three months before their birthdate.

Holly Keszler, from The Salon Professional Academy, shared her thoughts about the update to the required background checks for student licenses. Keszler inquired about what information the office looks at when considering license applications for individuals with criminal histories.

The Commission reviewed a Consent Agreement. Additional details can be found in the meeting packet. Pettigrew made a motion to accept the consent agreement. Sanner seconded the motion. **MOTION CARRIED.**

The Commission discussed the proposed academic dishonesty policy. Additional details can be found in the meeting packet. Bates made a motion to adopt the policy. Sanner seconded the motion. A roll call vote was requested by Graf. Trish Bates – Aye, Jason Pettigrew – Aye, Karma Sanner – Aye, Renee Graf – Aye. **MOTION CARRIED.**

The Commission reviewed and discussed the proposed Disciplinary Action Matrix, available in the meeting packet. Pettigrew made a motion to adopt the matrix. Sanner seconded the motion. Graf requested a roll call vote. Jason Pettigrew – Aye, Trish Bates – Aye, Renee Graf – Aye, Karma Sanner – Aye. **MOTION CARRIED.**

Sanner discussed the dermaplaning procedure and the implements used to perform dermaplaning. She shared her hopes of bringing legislation next session to create regulations for dermaplaning training.

Evins clarified the intent behind and legal requirement for limited salon and booth licenses. He shared that limited licenses only affect a business license, not an individual's personal operator license and that limited licenses are a benefit to business licensees who do not wish to offer all services under the cosmetology scope of practice.

Sanner suggested the Commission look at the required equipment for salons and booths and make updates to administrative rules as needed.

Evins discussed the 'one-time' paper license the Commission has issued since quarter four of 2023. He explained the office worked with the database developer to make the search function for the online verification tool more flexible to reduce errors and confusion.

The Commission discussed upcoming school visits.

Bates made a motion to adjourn the meeting. Pettigrew seconded the motion. **MOTION CARRIED.**

The meeting adjourned at 1:32 p.m. CDT.

DRAFT

Meeting Minutes
SOUTH DAKOTA COSMETOLOGY COMMISSION

Via Microsoft Teams

Monday, August 11, 2025, 9:30 a.m. CDT

The meeting was called to order at 9:30 a.m. CDT. Sanner called the roll. A quorum was present.

Commissioners Present: Renee Graf
Trish Bates
Karma Sanner
Jason Pettigrew

Others Present: Tyler Evins, Program Director
Jennifer Doubleddee, DLR Attorney
Jodi Aumer, Director of Professional Licensing
Tessa Schwans
Ellie Bailey
Holly Keszler
Melissa Regan
Wendy Johnston
Peggy Sproat
Taunya Charlton
Kim Leiferman

Evins requested agenda item L be stricken from the meeting agenda. There were no objections.

Bates made a motion to approve the agenda as amended. Sanner seconded the motion. **MOTION CARRIED.**

Renee Graf yielded the chair to Tyler Evins. Evins accepted nominations for the office of President. Bates nominated Graf for the office of President. Graf accepted the nomination. Evins called for a roll call vote. Trish Bates – Aye, Jason Pettigrew – Aye, Karma Sanner – Aye, Renee Graf – Abstain. Graf was elected President.

Evins yielded the chair to Graf. Graf accepted nominations for the office of Vice President. Sanner nominated Bates for the office of Vice President. Bates accepted the nomination. Graf called for a roll call vote. Jason Pettigrew – Aye, Renee Graf – Aye, Karma Sanner – Aye, Trish Bates – Abstain. Bates was elected Vice President.

Graf accepted nominations for the office of Secretary/Treasurer. Graf nominated Sanner for the office of Secretary/Treasurer. Sanner accepted the nomination. Graf called for a

roll call vote. Trish Bates – Aye, Renne Graf – Aye, Jason Pettigrew – Aye, Karma Sanner – Abstain. Sanner was elected Secretary/Treasurer.

Bates made a motion to approve the June 16, 2025, meeting minutes. Pettigrew seconded the motion. **MOTION CARRIED.**

Sanner reported that the cash center balance was \$196,346.15 on June 30, 2025.

Carmela Olson from Paul Mitchell the School shared her suggestions concerning continuing education courses for instructors. Olson suggested the board could look into approving a provider as a whole instead of individual courses. Instructors like the variety and being able to take different courses each year to further their education.

Peggy Sproat from Paul Mitchell the School shared her concerns with instructor continuing education courses, instructor late fees, and courses for microdermabrasion, eyelash extensions, and electric files.

Representative Tesa Schwans shared information about her legislative agenda regarding tiered esthetics, reciprocity licensure, out-of-state testing, apprenticeship programs, dermaplaning, and the scope of practice for each license type. The bill will be referred to as the 'Beauty Bill'. Schwans also shared information about the upcoming 'hairstylist day' at the Capitol on Jan 23, 2026.

Ellie Bailey, attorney for Daelyn Batmale, spoke on the proposed consent agreement in the meeting packet (i.e., agenda item H) and requested the Commission's approval.

Sheila Amrhien shared her concerns with the school's nail technology programs, stating that students are graduating without practicing services on real clients.

Wendy Johnston stated that having more continuing education options available would help instructors become more well-rounded. Johnston asked about the process to approve courses, what needs to be submitted, and how far in advance the material should be submitted for approval.

Evins outlined the course application/review process pursuant to ARSD 20:42:08:05.01.

The Commission reviewed a Consent Agreement. Additional details can be found in the meeting packet. Pettigrew made a motion to approve the consent agreement. Sanner seconded the motion. A roll call vote was held. Jason Pettigrew – Aye, Renee Graf – Aye, Trish Bates – Aye, Karma Sanner – Aye. **MOTION CARRIED.**

The Commission reviewed the proposed Examination Retake Policy. Additional details can be found in the meeting packet. Graf made a motion to adopt the proposed policy. Sanner seconded the motion. **MOTION CARRIED.**

The Commission reviewed the proposed Examination Eligibility Policy. Additional details can be found in the meeting packet. Pettigrew made a motion to adopt the policy. Sanner seconded the motion. **MOTION CARRIED.**

The Commission discussed the upcoming NIC conference taking place in October. Sanner made a motion to approve three people to attend the NIC Conference. Pettigrew seconded the motion. **MOTION CARRIED.**

Bates made a motion to adjourn the meeting. Pettigrew seconded the motion. **MOTION CARRIED.**

The meeting adjourned at 10:10 a.m. CDT.

South Dakota Cosmetology Commission

Financial Report – Fiscal Year 2026 (*Through Sept. 12*)

Prepared for Board Members

Overview

As of mid-September 2025, the South Dakota Cosmetology Commission has generated **\$117,106** in total revenues and incurred **\$89,495** in expenditures, resulting in a net positive position of **\$27,611**. This early fiscal performance suggests a stable financial trajectory heading into the remainder of FY26.

Revenue Highlights

- Licenses, Permits & Fees remain the primary revenue source, totaling **\$84,812** (72% of total revenue). The largest contributors include:
 - Operator/Manager Licenses: **\$51,205**
 - Salon Licenses: **\$18,435**
 - Permits: **\$7,240**
 - Fines, Forfeits & Penalties brought in **\$14,570**, reflecting active enforcement and compliance efforts.
 - Other Revenues totaled **\$10,487**, primarily from exam-related fees.
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Expenditure Summary

- Salaries and Wages accounted for the largest expense category at **\$41,293**, including:
 - Full-Time Employees: **\$28,419**
 - Part-Time/Temporary Staff: **\$11,545**
 - Board Member Fees: **\$1,328**
 - Benefits totaled **\$10,785**, covering health insurance, retirement, and employer contributions.
 - Contractual Services reached **\$27,737**.
 - Travel expenses were **\$3,221**, and Supplies & Materials came to **\$997**.
 - Capital Outlay included a one-time investment of **\$5,463** in computer hardware.
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Monthly Trends

- August was the highest revenue month so far, with **\$49,172** collected.
 - August also marked the highest expenditure month, totaling **\$50,031**.
 - The Commission has maintained a net positive cash flow in 2 of the first 3 months of FY26.
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Conclusion & Outlook

The Commission is off to a solid start in FY26, with revenues outpacing expenditures by over **\$27,000**. Licensing activity remains strong, and operational spending is aligned with strategic needs. Continued monitoring and prudent financial management will be key to sustaining this positive momentum through the fiscal year.

SOUTH DAKOTA COSMETOLOGY COMMISSION

FY26 Revenue Expense Report (Through Sept. 12)

Sum of Real Amt	Column Labels			2026 Total
	2026			
Revenues	Jul	Aug	Sep	
Nonoperating Revenues		7,237		7,237
NONOPERATING REVENUES		7,237		7,237
Licenses, Permits & Fees	30,052	32,635	22,125	84,812
COS-OPERATOR/MANAGER	18,420	20,665	12,120	51,205
COS-SALONS LICENSE	6,460	6,620	5,355	18,435
COS-INSTRUCTORS LIC	135	675	255	1,065
COS-STUDENTS/APPRENTICES	482	120	795	1,397
COS-PERMITS	2,565	2,875	1,800	7,240
COS-SCHOOL LICENSE	350		300	650
COS-RECIPROCITY/CERTIF	1,640	1,680	1,500	4,820
Fines, Forfeits, & Penalties	5,180	5,965	3,425	14,570
COS-PENALTY'S	5,180	5,965	3,425	14,570
Other Revenues	5,722	3,335	1,430	10,487
COS-EDUCATION COURSE COST	100	100	340	540
COSM-NATL EXAM TEST COST	5,560	3,030	870	9,460
MISCELLANEOUS INCOME	62	205	220	487
Grand Total	40,954	49,172	26,980	117,106

Sum of Real Amt	Column Labels			2026 Total
	2026			
Expenditures	Jul	Aug	Sep	
Salaries	16,773.07	24,519.51		41,292.58
BOARD & COMM MBRS FEES	664.00	664.00		1,328.00
F-T EMP SAL & WAGES	11,759.99	16,659.27		28,419.26
P-T/TEMP EMP SAL & WAGES	4,349.08	7,196.24		11,545.32
Benefits	4,411.15	6,361.04	12.86	10,785.05
HEALTH/LIFE INS.-ER SHARE	2,397.69	3,445.66		5,843.35
OASI-EMPLOYER'S SHARE	1,278.78	1,868.81	12.86	3,160.45
RETIREMENT-ER SHARE	705.64	999.56		1,705.20
UNEMPLOYMENT COMPENSATION	5.01	11.37		16.38
WORKER'S COMPENSATION	24.03	35.64		59.67
Travel	1,584.03	1,137.78	499.29	3,221.10
AUTO PRIV (IN-ST.) L/RTE	114.46	159.45	331.29	605.20
AUTO-PRIV (IN-ST.) H/RTE	515.90			515.90
AUTO-STATE OWNED-IN STATE	757.67	698.33		1,456.00
TAXABLE MEALS/IN-STATE	196.00	280.00	168.00	644.00
Contractual Services	13,422.39	12,197.61	2,116.54	27,736.54
BANK FEES AND CHARGES	741.01	823.65	842.71	2,407.37
BIT DEVELOPMENT COSTS		141.70		141.70
CENTRAL SERVICES	2,087.44	306.62		2,394.06
COMPUTER CONSULTANT	164.80			164.80
COMPUTER SERVICES-STATE	1,591.70	1,591.70		3,183.40
GARBAGE & SEWER		10.59		10.59
JANITORIAL & MAINT SERV	1.52	1.52		3.04
OTHER CONTRACTUAL SERVICE	8,514.00	9,000.00	1,116.00	18,630.00
TELECOMMUNICATIONS SRVCS	321.92	321.83	157.83	801.58
Supplies and Materials	644.61	352.35		996.96
OFFICE SUPPLIES	285.81	22.39		308.20
POSTAGE	358.80	244.61		603.41
PRINTING-STATE	-	85.35		85.35
Capital Outlay		5,462.88		5,462.88
COMPUTER HARDWARE		5,462.88		5,462.88
Grand Total	36,835.25	50,031.17	2,628.69	89,495.11

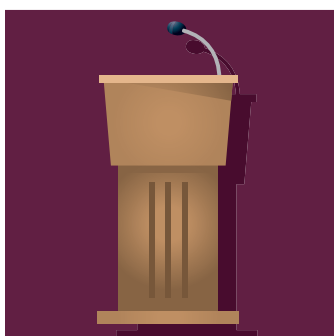
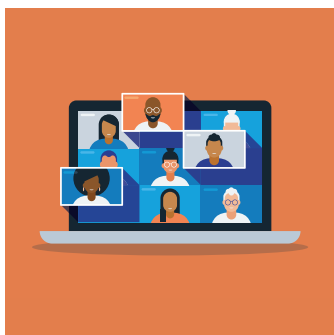
Commission Meeting & School Visit Dates

Event Type	Date	School/Apprentice Salon (AS)	Location
Commission Meeting ₁	March 31, 2025	N/A	Virtual (Microsoft Teams)
School Visit ₂	April 7, 2025	Paul Mitchell, TSPA	Rapid City
School Visit ₂	May 5, 2025	Stewart School, Hollywood Style AS	Sioux Falls
Commission Meeting ₁	June 16, 2025	N/A	Pierre (In-Person)
School Visit ₂	September 8, 2025	Appoise Esthetics School/ Revive AS	Aberdeen
Commission Meeting ₁	September 22, 2025	N/A	Virtual (Microsoft Teams)
School Visit ₂	November 10, 2025	LATC	Watertown
Commission Meeting ₁	November 17, 2025	N/A	Virtual (Microsoft Teams)

Note: All virtual meeting times at 1:00 p.m. CT; In-Person meeting time 12:30 p.m. CT

1: Quorum required (minimum of 3 Commissioners)

2: No quorum allowed (maximum of 2 Commissioners)



Conducting the Public's Business in Public

A guide to South Dakota's
Open Meetings Laws
(Revised 2025)

Prepared by:
S.D. Attorney General's Office
in partnership with the
S.D. NewsMedia Association

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Q: WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

A: South Dakota's open meetings laws embody the principle that the public is entitled to the greatest possible information about public affairs and are intended to encourage public participation in government. SDCL Ch. 1-25 requires that official meetings of public bodies must be public and advance notice is to be given of such meetings. The statutes define an "official meeting" as one where a quorum of the public body is present and at which official business or public policy of the body is discussed or decided. Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

A: The open meetings laws apply to all public bodies of the state and its political subdivisions. SDCL 1-25-1, 1-25-12(3). This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(2). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-1.5, 1-25-12(5). In addition, for teleconferences where

less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its agencies, boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

Q: WHO ARE LOCAL NEWS MEDIA?

A: There is no definition of “local news media” in SDCL ch. 1-25. “News media” is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that “local news media” is all news media – broadcast and print – that regularly carry news to the community.

Q: IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

A: Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. SDCL 1-25-1. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. Public comment is not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

Q: CAN PUBLIC MEETINGS BE RECORDED?

A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student’s participation in interscholastic activities; 3) consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or

contractual matters; 4) employee contract negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. “pursuant to SDCL 1-25-2(3).” Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state “motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter,” or “motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel.”

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission ("OMC"). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION ("OMC")?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys or Deputy State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General's Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. <http://atg.sd.gov/>.

Q: WHAT DOES THE TERM "SOVEREIGN POWER" MEAN?

A: The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising "sovereign power" it should consult with legal counsel.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See *In re Yankton County Commission, Open Meetings Commission Decision # 20-03*, December 31, 2020. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute.

For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A: The definition of an "official meeting" in SDCL 1-25-12(1) specifically includes meetings conducted by "electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform[.]" A quorum of a public body that discusses official business of that body via electronic means is conducting an official meeting for purposes of the open meetings laws. Electronic communications made solely for scheduling purposes do not fall within the definition of an official meeting.

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A: SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A: Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

Q: ARE PUBLIC BODIES REQUIRED TO REVIEW THE OPEN MEETINGS LAWS?

A: Public bodies must annually review an explanation of the open meetings laws provided by the Attorney General, along with any other material pertaining to the open meetings laws made available by the Attorney General. SDCL 1-25-13. Each public body must report in its minutes that the annual review of the open meetings laws was completed.

PERTINENT S.D. OPEN MEETINGS STATUTES

(other specific provisions may apply depending on the public body involved)



1-25-1. OPEN MEETINGS. An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and must contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment.

Public comment is not required at an official meeting held solely for the purpose of meeting in executive session, an inauguration, presentation of an annual report to the public body, or swearing in of a newly elected official, regardless of whether the activity takes place at the time and place usually reserved for an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meets solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by

telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING. Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION. At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

1-25-2. EXECUTIVE SESSION. Executive or closed meetings may be held for the sole purposes of:

(1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;

(2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;

(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;

(4) Preparing for contract negotiations or negotiating with employees or employee representatives;

(5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or

(6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Cyber security plans, computer, communications network schema, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations;

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and

(h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting

is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a class 2 misdemeanor.

1-25-6. DUTY OF STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney,

and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC Members. The South Dakota Open Meeting Commission is comprised of five state's attorneys or deputy state's attorneys appointed by the attorney general. Each commissioner serves at the pleasure of the attorney general. The members of the commission shall choose a chair of the commission annually by majority vote.

1-25-12. DEFINITIONS. Terms used in the open meetings laws mean:

(1) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference or electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform, provided the term does not include communications solely to schedule a meeting or confirm attendance availability for a future meeting;

(2) "Political subdivision," any association, authority, board, municipality, commission, committee, council, county, school district, task force, town, township, or other local governmental entity, which is created by statute, ordinance, or resolution, and is vested with the authority to exercise any sovereign power derived from state law;

(3) "Public body," any political subdivision or the state;

(4) "State," each agency, board, commission, or department of the State of South Dakota, not including the Legislature; and

(5) "Teleconference," an exchange of information by any audio, video, or electronic medium, including the internet.

1-25-13. ANNUAL REVIEW OF OPEN MEETING LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-1.1 or 1-25-1.3 must annually review the following, during an official meeting of the agency or subdivision:

(1) The explanation of the open meeting laws of this state published by the attorney general, pursuant to § 1-11-1; and

(2) Any other material pertaining to the open meeting laws of this state provided by the attorney general.

The agency or subdivision must include in the minutes of the official meeting an acknowledgement that the review was completed.

1-27-1.16. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.