

OFFICIAL CODE OF GEORGIA ANNOTATED  
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\*\*\* Current Through the 2012 Regular Session \*\*\*  
\*\*\* Annotations Current Through November 9, 2012 \*\*\*

TITLE 50. STATE GOVERNMENT  
CHAPTER 14. OPEN AND PUBLIC MEETINGS

**GO TO GEORGIA STATUTES ARCHIVE DIRECTORY**

*O.C.G.A. § 50-14-1 (2012)*

§ 50-14-1. Meetings to be open to public; limitation on action to contest agency action; recording; notice of time and place; access to minutes; telecommunications conferences

(a) As used in this chapter, the term:

(1) "Agency" means:

(A) Every state department, agency, board, bureau, office, commission, public corporation, and authority;

(B) **Every county, municipal corporation, school district, or other political subdivision of this state;**

(C) Every department, agency, board, bureau, office, commission, authority, or similar body of each such county, municipal corporation, or other political subdivision of the state;

(D) Every city, county, regional, or other authority established pursuant to the laws of this state; and

(E) Any nonprofit organization to which there is a direct allocation of tax funds made by the governing body of any agency as defined in this paragraph which constitutes more than 33 1/3 percent of the funds from all sources of such organization; provided, however, that this subparagraph shall not include hospitals, nursing homes, dispensers of pharmaceutical products, or any other type organization, person, or firm furnishing medical or health services to a citizen for which they receive reimbursement from the state whether directly or indirectly; nor shall this term include a subagency or affiliate of such a nonprofit organization from or through which the allocation of tax funds is made.

(2) **"Executive session" means a portion of a meeting lawfully closed to the public.**

(3) (A) "Meeting" means:

(i) The gathering of a quorum of the members of the governing body of an agency at which any official business, policy, or public matter of the agency is formulated, presented, discussed, or voted upon; or

(ii) The gathering of a quorum of any committee of the members of the governing body of an agency or a quorum of any committee created by the governing body at which any official business, policy, or public matter of the committee is formulated, presented, discussed, or voted upon.

(B) "Meeting" shall not include:

(i) **The gathering of a quorum of the members of a governing body or committee for the purpose of making inspections of physical facilities** or property under the jurisdiction of such agency at which no other official business of the agency is to be discussed or official action is to be taken;

(ii) The gathering of a quorum of the members of a governing body or committee for the **purpose of attending state-wide, multijurisdictional, or regional meetings to participate in seminars or courses of training on matters related to the purpose of the agency or to receive or discuss information** on matters related to the purpose of the agency at which no official action is to be taken by the members;

(iii) The gathering of a quorum of the members of a governing body or committee for the purpose of **meeting with officials of the legislative or executive branches of the state or federal government at state or federal offices** and at which no official action is to be taken by the members;

(iv) The gathering of a quorum of the members of a governing body of an agency for the **purpose of traveling to a meeting or gathering as otherwise authorized** by this subsection so long as no official business, policy, or public matter is formulated, presented, discussed, or voted upon by the quorum; or

(v) The gathering of a quorum of the members of a governing body of an agency at **social, ceremonial, civic, or religious events so long as no official business, policy, or public matter is formulated**, presented, discussed, or voted upon by the quorum.

This subparagraph's exclusions from the definition of the term "meeting" shall not apply if it is shown that the primary purpose of the gathering or gatherings is to evade or avoid the requirements for conducting a meeting while discussing or conducting official business.

(b) (1) Except as otherwise provided by law, all meetings shall be open to the public. All votes at any meeting shall be taken in public after due notice of the meeting and compliance with the posting and agenda requirements of this chapter.

(2) Any resolution, rule, regulation, ordinance, or other official action of an agency adopted, taken, or made at a meeting which is not open to the public as required by this chapter shall not be binding. Any action contesting a resolution, rule, regulation, ordinance, or other formal action of an agency based on an alleged violation of this provision shall be commenced within 90 days of the date such contested action was taken or, if the meeting was held in a manner not permitted by law, within 90 days from the date the party alleging the violation knew or should have known about the alleged violation so long as such date is not more than six months after the date the contested action was taken.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any action under this chapter contesting a zoning decision of a local governing authority shall be commenced within the time allowed by law for appeal of such zoning decision.

**(c) The public at all times shall be afforded access to meetings declared open to the public pursuant to subsection (b) of this Code section. Visual and sound recording during open meetings shall be permitted.**

(d) (1) Every agency subject to this chapter shall prescribe the time, place, and dates of regular meetings of the agency. Such information shall be available to the general public and a notice containing such information shall be posted **at least one week in advance** and maintained in a conspicuous place available to the public at the regular place of an agency or committee meeting subject to this chapter as well as on the agency's website, if any. Meetings shall be held in accordance with a regular schedule, but nothing in this subsection shall preclude an agency from canceling or postponing any regularly scheduled meeting.

(2) For any meeting, other than a regularly scheduled meeting of the agency for which notice has already been provided pursuant to this chapter, written or oral notice **shall be given at least 24 hours in advance of the meeting** to the legal organ in which notices of sheriff's sales are published in the county where regular meetings are held or at the option of the agency to a newspaper having a general circulation in such county at least equal to that of the legal organ; provided, however, that, in counties where the legal organ is published less often than four times weekly, sufficient notice shall be the posting of a written notice for at least 24 hours at the place of regular meetings and, upon written request from any local broadcast or print media outlet whose place of business and physical facilities are located in the county, notice by telephone, facsimile, or e-mail to that requesting media outlet at least 24 hours in advance of the called meeting. Whenever notice is given to a legal organ or other newspaper, that publication shall immediately or as soon as practicable make the information available upon inquiry to any member of the public. Upon written request from any local broadcast or print media outlet, a copy of the meeting's agenda shall be provided by facsimile, e-mail, or mail through a self-addressed, stamped envelope provided by the requestor.

(3) **When special circumstances occur and are so declared by an agency, that agency may hold a meeting with less than 24 hours' notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under** the circumstances, including notice to the county legal organ or a newspaper having a general circulation in the county at least equal to that of the legal organ, in which event the reason for holding the meeting within 24 hours and the nature of the notice shall be recorded in the minutes. Such reasonable notice shall also include, upon written request within the previous calendar year from any local broadcast or print media outlet whose place of business and physical facilities are located in the county, notice by telephone, facsimile, or e-mail to that requesting media outlet.

(e) (1) Prior to any meeting, the agency or committee holding such meeting **shall make available an agenda of all matters expected to come before the agency or committee at such meeting.** The agenda shall be available upon request and shall be posted at the meeting site as far in advance of the meeting as reasonably possible, but shall not be required to be available more than two weeks prior to the meeting and shall be posted, at a minimum, at some time during the two-week period immediately prior to the meeting. **Failure to include on the agenda an item which becomes necessary to address during the course of a meeting shall not preclude considering and acting upon such item.**

(2) (A) A summary of the subjects acted on and those members present at a meeting of any agency shall be written and made available to the public for inspection within two business days of the adjournment of a meeting.

(B) **The regular minutes of a meeting subject to this chapter shall be promptly recorded and such records shall be open to public inspection once approved as official by the agency or its committee, but in no case later than immediately following its next regular meeting; provided,** however, that nothing contained in this chapter shall prohibit the earlier release of minutes, whether approved by the agency or not. Such minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, the identity of the persons making and seconding the motion or other proposal, and a record of all votes. The name of each person voting for or against a proposal shall be recorded. It shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining.

(C) **Minutes of executive sessions shall also be recorded but shall not be open to the public. Such minutes shall specify each issue discussed in executive session by the agency or committee. In the case of executive sessions where matters subject to the attorney-client privilege are discussed, the fact that an attorney-client discussion occurred and its subject shall be identified, but the substance of the discussion need not be recorded and shall not be identified in the minutes. Such minutes shall be kept and preserved for in camera inspection by an appropriate court should a dispute arise as to the propriety of any executive session.**

(f) An agency with state-wide jurisdiction or committee of such an agency shall be authorized to conduct meetings by teleconference, provided that any such meeting is conducted in compliance with this chapter.

(g) Under circumstances necessitated by emergency conditions involving public safety or the preservation of property or public services, agencies or committees thereof not otherwise permitted by subsection (f) of this Code section to conduct meetings by teleconference may meet by means of teleconference so long as the notice required by this chapter is provided and means are afforded for the public to have simultaneous access to the teleconference meeting. On any other occasion of the meeting of an agency or committee thereof, and so long as a quorum is present in person, a member may participate by teleconference if necessary due to reasons of health or absence from the jurisdiction so long as the other requirements of this chapter are met. Absent emergency conditions or the written opinion of a physician or other health professional that reasons of health prevent a member's physical presence, no member shall participate by teleconference pursuant to this subsection more than twice in one calendar year.

**HISTORY:** Code 1981, § 50-14-1, enacted by Ga. L. 1988, p. 235, § 1; Ga. L. 1992, p. 1061, §§ 1, 2; Ga. L. 1993, p. 784, § 1; Ga. L. 1999, p. 549, §§ 1, 2; Ga. L. 2012, p. 218, § 1/HB 397.

**NOTES:** THE 2012 AMENDMENT, effective April 17, 2012, inserted "office," in subparagraphs (a)(1)(A) and (a)(1)(C); substituted "governing body of any agency as defined in this paragraph which constitutes" for "governing authority of any agency as defined in this paragraph and which allocation constitutes" near the middle in subparagraph (a)(1)(E); added paragraph (a)(2); redesignated former paragraph (a)(2) as present paragraph (a)(3); rewrote paragraph (a)(3); substituted the present provisions of subsection (b) for the former provisions, which read: "Except as otherwise provided by law, all meetings as defined in subsection (a) of this Code section shall be open to the public. Any resolution, rule, regulation, ordinance, or other official action of an agency adopted, taken, or made at a meeting which is not open to the public as required by this chapter shall not be binding. Any action contesting a resolution, rule, regulation, ordinance, or other formal action of an agency based on an alleged violation of this provision must be commenced within 90 days of the date such contested action was taken, provided that any action under this chapter contesting a zoning decision of a local governing authority shall be commenced within the time allowed by law for appeal of such zoning decision."; in subsection (c), deleted ", sound, and visual" following "Visual" in the second sentence; rewrote subsections (d) and (e); in subsection (f), inserted "or committee of such an agency", and substituted "teleconference" for "telecommunications conference"; and added subsection (g).

CODE COMMISSION NOTES. --Pursuant to *Code Section 28-9-5*, in 1988, "at which" was inserted following "time and place" in the first sentence of paragraph (a)(2).

Pursuant to *Code Section 28-9-5*, in 1993, in paragraph (a)(2), the period at the end was moved inside the quotation marks.

Pursuant to *Code Section 28-9-5*, in 1999, "two-week" was substituted for "two week" in paragraph (e)(1).

Pursuant to *Code Section 28-9-5*, in 2009, "that" was inserted following "however," in subparagraph (a)(1)(E).

CROSS REFERENCES. --Preventing or disrupting lawful meetings, gatherings, or processions, § 16-11-34. Preventing or disrupting General Assembly sessions or other meetings of members; unlawful activities within the state capitol or certain Capitol Square buildings, § 16-11-34.1.

LAW REVIEWS. --For article discussing provisions opening local government meetings to the public, see *13 Ga. L. Rev. 97 (1978)*. For article discussing Georgia's open government provisions with respect to land use planning, in light of *Evans v. Just Open Gov't*, *242 Ga. 834, 251 S.E.2d 546 (1979)*, see *31 Mercer L. Rev. 89 (1979)*. For article, "Georgia's Open Records and Open Meetings Laws: A Continued March Toward Government in the Sunshine," see *40 Mercer L. Rev. 1 (1988)*. For annual survey of local government law, see *44 Mercer L. Rev. 309 (1992)*. For survey article on local government law for the period from June 1, 2002 to May 31, 2003, see *55 Mercer L. Rev. 353 (2003)*. For annual survey of Administrative Law, see *57 Mercer L. Rev. 1 (2005)*. For annual survey of local government law, see *57 Mercer L. Rev. 289 (2005)*. For survey article on administrative law, see *59 Mercer L. Rev. 1 (2007)*. For survey article on local government law, see *59 Mercer L. Rev. 285 (2007)*. For survey article on zoning and land use law, see *59 Mercer L. Rev. 493 (2007)*.

For note discussing Georgia's Sunshine Law requiring meetings by state and local governmental authorities to be open to the public, see *10 Ga. St. B.J. 598 (1974)*. For note on 1989 amendment to this Code section, see *6 Ga. St. U. L. Rev. 324 (1989)*. For note on 1992 amendment of this Code section, see *9 Ga. St. U. L. Rev. 344 (1992)*. For note on 1999 amendment to this Code section, see *16 Ga. St. U. L. Rev. 256 (1999)*.

## JUDICIAL DECISIONS

### ANALYSIS

General Consideration

Application

## GENERAL CONSIDERATION

EDITOR'S NOTES. --In light of the similarity of the statutory provisions, decisions under former Ga. L. 1972, p. 575, which was subsequently repealed but was succeeded by provisions in this Code section, are included in the annotations for this Code section.

APPLICABILITY OF ACT. --The test for applicability of the Open Meetings Act, O.C.G.A. Ch. 14, T. 50, is two-pronged: first, is the meeting one of a "governing body of an agency" or any committee thereof; and second, is the meeting one "at which official business or policy of the agency is to be discussed or at which official action is to be taken?" *Crosland v. Butts County Bd. of Zoning Appeals*, *214 Ga. App. 295, 448 S.E.2d 454 (1994)*.

CONSTRUCTION OF ACT. --The Open Meetings Act, O.C.G.A. Ch. 14, T. 50, must be broadly construed to effect the Act's purpose of protecting the public and individuals from closed door meetings. *Jersawitz v. Fortson*, *213 Ga. App. 796, 446 S.E.2d 206 (1994)*; *Crosland v. Butts County Bd. of Zoning Appeals*, *214 Ga. App. 295, 448 S.E.2d 454 (1994)*.

In view of the General Assembly's intent, the correct reading of the Open Meetings Act, O.C.G.A. § 50-14-1(e)(2), and the one that is most natural and reasonable, is that, having first mandated that meeting minutes include a record of all votes, the subsection then sets forth alternative requirements for accurately recording individuals' votes in the case of both roll-call and non-roll-call votes; in the case of a non-roll-call vote, the minutes must list the names of those voting against a proposal or abstaining, and if no such names are listed, the public may correctly presume that the vote was unanimous, but if such names are listed, a member of the public need only look at the list of voting officials in attendance at the meeting to determine who voted for a proposal. *Cardinale v. City of Atlanta*, *290 Ga. 521, 722 S.E.2d 732 (2012)*.

**PHYSICAL ACCESS NOT REQUIRED.** --The Open Meetings Act, O.C.G.A. Ch. 14, T. 50, requires adequate, advance notice of a meeting, not physical access to all members of the public. *Maxwell v. Carney*, 273 Ga. 864, 548 S.E.2d 293 (2001).

**LANGUAGE OF THIS SECTION IS CLEAR,** the language applies to the meetings of the variously described bodies which are empowered to act officially for the state and at which such official action is taken. *McLarty v. Board of Regents of Univ. Sys.*, 231 Ga. 22, 200 S.E.2d 117 (1973) (decided under former Ga. L. 1972, p. 575).

**UNAUTHORIZED GROUPS.** --This section does not encompass the innumerable groups which are organized and meet for the purpose of collecting information, making recommendations, and rendering advice but which have no authority to make governmental decisions and act for the state. *McLarty v. Board of Regents of Univ. Sys.*, 231 Ga. 22, 200 S.E.2d 117 (1973) (decided under former Ga. L. 1972, p. 575).

**CONSTRUED WITH RECALL ACT.** --The conduct of a public official who participates in a closed meeting that is required by law to be open can become a "ground for recall" under the Recall Act, O.C.G.A. § 21-4-1 et seq., if the circumstances of that participation come within the definition of "grounds for recall." *Steele v. Honea*, 261 Ga. 644, 409 S.E.2d 652 (1991).

**"MEETING" DEFINED.** --A "meeting," within the definition of the Open Meetings Act, O.C.G.A. Ch. 14, T. 50, may be conducted by written, telephonic, electronic, wireless, or other virtual means. A designated place may be a postal, Internet, or telephonic address. A designated time may be the date upon which requested responses are due. *Claxton Enter. v. Evans County Bd. of Comm'rs*, 249 Ga. App. 870, 549 S.E.2d 830 (2001).

**OPENNESS OF GOVERNMENTAL MEETINGS.** --The "sunshine law" does not require notice to the public of governmental meetings; rather, the law merely requires meetings to be open to the public. *Dozier v. Norris*, 241 Ga. 230, 244 S.E.2d 853 (1978) (decided under former Ga. L. 1972, p. 575).

**SCOPE OF O.C.G.A. § 50-14-1.** --This section seeks to eliminate closed meetings which engender in the people a distrust of its officials who are clothed with the power to act in their name. *McLarty v. Board of Regents of Univ. Sys.*, 231 Ga. 22, 200 S.E.2d 117 (1973) (decided under former Ga. L. 1972, p. 575).

This section deals with the openness of public meetings, not with notice of such meetings. *Harms v. Adams*, 238 Ga. 186, 232 S.E.2d 61 (1977) (decided under former Ga. L. 1972, p. 575).

**"OFFICIAL ACTION" DEFINED.** --Official action is action which is taken by virtue of power granted by law, or by virtue of the office held, to act for and in behalf of the state. *McLarty v. Board of Regents of Univ. Sys.*, 231 Ga. 22, 200 S.E.2d 117 (1973) (decided under former Ga. L. 1972, p. 575).

**IMMUNITY FOR ACTION WITHIN SCOPE OF OFFICIAL DUTIES.** --Actions taken by members of county airport authority which may have violated the Open Meetings Act, O.C.G.A. Ch. 14, T. 50, did not lose their character as actions taken within the scope of the members' official duties for purposes of immunity. *Atlanta Airmotive, Inc. v. Royal*, 214 Ga. App. 760, 449 S.E.2d 315 (1994).

**SOME MEETINGS CLOSED TO PUBLIC.** --A county board of education may have unofficial meetings or meetings closed to the public to discuss and decide questions that fall within the enumerated exceptions of this chapter. *Deriso v. Cooper*, 245 Ga. 786, 267 S.E.2d 217 (1980) (decided under former Ga. L. 1972, p. 575).

**ACTIONS AT NONPUBLIC MEETINGS VIOLATIVE OF O.C.G.A. § 50-14-1.** --Where there was conflicting evidence whether the substantive merits of a petition for a special land use permit to develop a solid waste landfill were discussed at nonpublic meetings of county board of zoning appeal, summary judgment for the board was precluded. *Crosland v. Butts County Bd. of Zoning Appeals*, 214 Ga. App. 295, 448 S.E.2d 454 (1994).

**PRIOR IMPROPER MEETINGS.** --The Open Meetings Act, O.C.G.A. Ch. 14, T. 50, contains no provision authorizing a court to invalidate an ordinance on the ground that the subject matter of the ordinance was previously discussed at meetings that violate the Act. *Board of Comm'rs v. Levetan*, 270 Ga. 544, 512 S.E.2d 627 (1999).

CITED in *Georgia Real Estate Comm'n v. Horne*, 141 Ga. App. 226, 233 S.E.2d 16 (1977); *Worthy v. Paulding County Hosp. Auth.*, 243 Ga. 851, 257 S.E.2d 271 (1979); *Irvin v. Macon Tel. Publishing Co.*, 253 Ga. 43, 316 S.E.2d 449 (1984); *Atlanta Journal v. Babush*, 257 Ga. 790, 364 S.E.2d 560 (1988); *Walker v. City of Warner Robins*, 262 Ga. 551, 422 S.E.2d 555 (1992); *Guthrie v. Dalton City Sch. Dist.*, 213 Ga. App. 849, 446 S.E.2d 526 (1994); *Moon v. Terrell County*, 260 Ga. App. 433, 579 S.E.2d 845 (2003).

## APPLICATION

**CITIZEN LACKED STANDING TO INITIATE CRIMINAL PROSECUTION.** --Portion of a citizen's complaint seeking to impose criminal liability on city council members for their violation of the Open Meetings Act, *O.C.G.A. § 50-14-1(e)(2)*, was properly dismissed because the citizen lacked standing to initiate criminal prosecution; at most, only the Act, *O.C.G.A. § 50-14-6*, is subject to a strict construction. *Cardinale v. City of Atlanta*, 290 Ga. 521, 722 S.E.2d 732 (2012).

**INADEQUATE NOTICE TO LANDFILL OPERATOR.** --Although the county board of commissioners met the technical requirements of *O.C.G.A. § 50-14-1(d)*, posting notice of the meeting in which the waste ordinance was adopted on the door of the county office building was not adequate as a matter of law since the board knew that the ordinance would affect the landfill operator's business in operating the landfill and notice was not published in the legal organ of the county because the meeting occurred before publication was possible. *Diamond Waste, Inc. v. Monroe County*, 796 F. Supp. 1511 (M.D. Ga. 1992).

**STUDENT GROUPS.** --A committee of the University of Georgia which was organized by the dean of student affairs primarily for the purpose of reviewing the student senate's recommended allocation of student activity funds does not come within the purview of this section. *McLarty v. Board of Regents of Univ. Sys.*, 231 Ga. 22, 200 S.E.2d 117 (1973) (decided under former Ga. L. 1972, p. 575).

**INAPPLICABLE TO LEGISLATURE.** --This chapter is applicable to the departments, agencies, boards, bureaus, etc. of this state and its political subdivisions. It is not applicable to the *General Assembly*. *Coggin v. Davey*, 233 Ga. 407, 211 S.E.2d 708 (1975) (decided under former Ga. L. 1972, p. 575).

**INAPPLICABLE TO PUBLIC OFFICER DISMISSALS.** --The Open Meetings Act, *O.C.G.A. Ch. 14, T. 50*, is not applicable when the dismissal of a public officer, such as a county attorney, is under consideration in accordance with *O.C.G.A. § 50-14-3(6)*. *Brennan v. Chatham County Comm'rs*, 209 Ga. App. 177, 433 S.E.2d 597 (1993).

**INAPPLICABLE TO ADVISORY GROUP.** --The Atlanta City Council can not constitutionally delegate subpoena power, power to punish by contempt, and the power to require sworn testimony before a court reporter to a purely private, advisory group (the Administrative Review Panel), and the attempt by the city council to do so is void. Accordingly, since the purported delegation of official power to the panel is constitutionally infirm, the panel has no lawful official power, and is a purely advisory group, not subject to the provisions of *O.C.G.A. Ch. 14, T. 50*. *Atlanta Journal v. Hill*, 257 Ga. 398, 359 S.E.2d 913 (1987) (decided prior to 1988 repeal and reenactment).

**MEETING SCHEDULED TO AVOID HOLIDAY.** --Owners of property annexed by a city did not show, under *O.C.G.A. § 50-14-1(d)*, that the annexation ordinance was adopted at an improperly rescheduled city meeting held prior to the date on which the meeting would normally be held; the meeting was not rescheduled, as it was noted on the official notice of city government meetings that the meeting would not be held on the meeting's normal day of every other Thursday because that would fall on Christmas, and that the meeting date would be scheduled later, which it was, and the meeting was held on the date scheduled. *Bradley Plywood Corp. v. Mayor & Aldermen of Savannah*, 271 Ga. App. 828, 611 S.E.2d 105 (2005).

**COMMITTEE MEETING WITHIN PURVIEW OF ACT.** --The Olympic Task Force Selection Committee of the Atlanta Housing Authority (AHA), formed with the knowledge and approval of AHA and consisting of several AHA decisionmakers, was a vehicle for the agency to carry out the agency's responsibilities and, thus, a meeting of the committee was within the purview of the Open Meetings Act, *O.C.G.A. Ch. 14, T. 50*. *Jersawitz v. Fortson*, 213 Ga. App. 796, 446 S.E.2d 206 (1994).

CORONER'S INQUEST CONSTITUTES A "MEETING" within the meaning of *O.C.G.A. § 50-14-1(a)(2)*. *Kilgore v. R.W. Page Corp.*, 261 Ga. 410, 405 S.E.2d 655 (1991).

CONFERENCE OF COUNTY COMMISSIONERS AND COUNTY ATTORNEY TO DISCUSS ZONING RULING WAS NOT A MEETING. --Conference among county commissioners, the county zoning administrator, the county attorney, and a zoning applicant, held immediately following a superior court ruling invalidating a zoning decision, was not a "meeting" under *O.C.G.A. § 50-14-1(a)(2)* because it was not held pursuant to schedule, call, or notice at a designated time and place. Even if any business or policy was discussed at the conference, no official action was taken that could be voided under *§ 50-14-1(b)*. *Gumz v. Irvin*, 300 Ga. App. 426, 685 S.E.2d 392 (2009).

PRIVATE, NONPROFIT HOSPITAL CORPORATIONS that served as vehicles through which public hospital authorities carried out their official responsibilities were subject to the Open Meetings Act, O.C.G.A. Ch. 14, T. 50, and the Open Records Act, O.C.G.A. Ch. 14, T. 50. *Northwest Ga. Health Sys. v. Times-Journal, Inc.*, 218 Ga. App. 336, 461 S.E.2d 297 (1995).

STUDENT ORGANIZATION COURT HEARINGS OPEN. --The trial court erred in concluding that the hearings of the student-run organization court were not subject to the Open Meetings Act, O.C.G.A. Ch. 14, T. 50, given that the court was the official vehicle by which the university carried out the university's responsibility, as directed by the Board of Regents, to regulate social organizations. *Red & Black Publishing Co. v. Board of Regents*, 262 Ga. 848, 427 S.E.2d 257 (1993).

RECORDS OF PRIVATE UNIVERSITY'S POLICE FORCE. --Records of a campus police force of a private university were not subject to disclosure under the Open Records Act, *O.C.G.A. § 50-18-70* et seq., as the university was a private institution that did not receive any funding from the state, the campus police were employees of that entity pursuant to the authority of *O.C.G.A. § 20-8-2*, and the fact that the police performed a public function did not make their records into public records; the fact that the campus police were given authority to perform certain functions by the Campus Policemen Act, *O.C.G.A. § 20-8-1* et seq., and the Georgia Peace Officer Standards and Training Act, *O.C.G.A. § 35-8-1* et seq., did not make them officers or employees of a public office or agency for purposes of the *Open Records Act*. *The Corp. of Mercer Univ. v. Barrett & Farahany, L.L.P.*, 271 Ga. App. 501, 610 S.E.2d 138 (2005).

WHERE INQUEST WAS CLOSED TO PUBLIC. --Relief sought in a newspaper publisher's suit against a coroner to prohibit the coroner from closing to the public a scheduled inquest was governed by the Open Meetings Law, O.C.G.A. Ch. 14, T. 50, and the Open Records Law, *O.C.G.A. § 50-18-70*. *Kilgore v. R.W. Page Corp.*, 259 Ga. 556, 385 S.E.2d 406 (1989).

PROVISION OF VIDEOTAPE OF MEETING IS NOT COMPLIANCE. --Atlanta Housing Authority did not substantially comply with the statute by providing a citizen with a videotape of a meeting of the Olympic Task Force Selection Committee after the agency accepted the recommendation of the committee. *Jersawitz v. Fortson*, 213 Ga. App. 796, 446 S.E.2d 206 (1994).

OPEN MEETINGS CANNOT BE CLOSED BY ONE CITIZEN. --Because the public has the right to access to a meeting declared open to the public, one citizen cannot elect to close a meeting that should be open. *Moon v. Terrell County*, 249 Ga. App. 567, 548 S.E.2d 680 (2001).

ERROR TO HOLD CLOSED EXECUTIVE SESSION. --Grand jury presentments questioning the propriety of certain policies of county commissioners did not amount to pending or potential litigation so the attorney-client privilege did not apply to a meeting conducted to fashion a response to the presentments, and the commissioners violated *O.C.G.A. § 50-14-1(b)* by conducting an executive session concerning the presentments. *Decatur County v. Bainbridge Post Searchlight, Inc.*, 280 Ga. 706, 632 S.E.2d 113 (2006).

INJUNCTIVE RELIEF NOT AVAILABLE TO COMPEL COMPLIANCE IN THE FUTURE. --Trial court erred in issuing temporary and permanent injunctions ordering a county board of commissioners to comply with the Open Records Act, *O.C.G.A. § 50-14-1* et seq., in the future as the board already had a duty to obey the law, and the complaint for injunctive relief, which was filed by the director of a county agency, averred no more than apprehensions of future

injury, for which injunctive relief was not available. *Wiggins v. Bd. of Comm'rs*, 258 Ga. App. 666, 574 S.E.2d 874 (2002).

**VIOLATION OF AGENDA-POSTING REQUIREMENT NOT FOUND.** --Because no allegation, much less evidence, was presented by a county property buyer that a technical violation of the agenda-posting requirement under *O.C.G.A. § 50-14-1(e)(1)* deprived the buyer of a fair and open consideration of its claim or in any way impeded the remedial and protective purposes of the Open Meetings Act, the posting of the agenda at the regular meeting place of the county board of commissioners, rather than at the actual meeting site, sufficiently complied with the statute's requirements. *EarthResources, LLC v. Morgan County*, 281 Ga. 396, 638 S.E.2d 325 (2006).

**CLAIMS FOR LACK OF NOTICE UNTIMELY.** --Because a citizens group's claims for lack of notice under the Georgia Open and Public Meetings Law, *O.C.G.A. § 50-14-1(d)*, were untimely, and because the group failed to show that the actions by a county and a company in operating a landfill violated *O.C.G.A. §§ 12-8-32* and *48-8-121(a)(1)*, the company was entitled to summary judgment in the group's action for damages and declaratory and injunctive relief. *Anti-Landfill Corp. v. North Am. Metal Co., LLC*, 299 Ga. App. 509, 683 S.E.2d 88 (2009).

**CHAIRPERSON OF COUNTY SCHOOL BOARD IN CONTEMPT FOR INTERFERING WITH AGENDA ITEMS.** --Evidence supported a trial court's conclusion that the chairperson of a county board of education deliberately prevented board members from appealing the chairperson's decisions at a board meeting and would not recognize any appeals of the chairperson's decisions to the other members of the board, and the trial court properly held the chairperson in contempt of the court's order requiring that all board members be entitled to place matters on the agenda consistent with *O.C.G.A. § 50-14-1*. *Cook v. Smith*, 288 Ga. 409, 705 S.E.2d 847 (2010).

**NAMES OF PERSONS VOTING OMITTED FROM MINUTES OF MEETING.** --Court of appeals erred in affirming the dismissal of a citizen's action alleging that a city and city council members violated the Open Meetings Act, *O.C.G.A. § 50-14-1(e)(2)*, because the complaint stated claims for declaratory and injunctive relief under the Act, *O.C.G.A. § 50-14-5(a)*, based upon alleged violations of *O.C.G.A. § 50-14-1(e)(2)* since the minutes of a council meeting omitted the names of council members who voted, in the minority to amend certain council rules; the court of appeals erred in interpreting *O.C.G.A. § 50-14-1(e)(2)* to allow minutes of an agency meeting to omit the names of persons voting against a proposal or abstaining when the vote was not taken by roll-call and was not unanimous. *Cardinale v. City of Atlanta*, 290 Ga. 521, 722 S.E.2d 732 (2012).

#### OPINIONS OF THE ATTORNEY GENERAL

**EDITOR'S NOTES.** --In light of the similarity of the statutory provisions, opinions under former Ga. L. 1972, p. 575, which was subsequently repealed but was succeeded by provisions in this Code section, are included in the annotations for this Code section.

**APPLICABILITY OF *O.C.G.A. § 50-14-1*.** --This section, the "sunshine law," does not cover meetings at which no official action may be taken. 1978 Op. Att'y Gen. No. U78-2 (decided under former Ga. L. 1972, p. 575).

**COUNTY BOARD OF TAX ASSESSORS AND COUNTY BOARD OF EQUALIZATION** are subject to the Georgia Open Meetings Law, *O.C.G.A. Ch. 14, T. 50*. 1995 Op. Att'y Gen. No. U95-22.

**AD HOC "PUBLIC RECORD" EVALUATION.** --Question of whether specific investigation or inspection report is "public record" must be answered on a case-by-case basis. 1980 Op. Att'y Gen. No. 80-105 (decided under former Ga. L. 1972, p. 575).

**INSPECTION OF BOARD-INITIATED INVESTIGATION FILES.** --Unless files reflecting board-initiated investigation meet definition of former subsection (b) of this section, citizen does not have a right to inspect such a file as a public record under former Ga. L. 1959, p. 88, § 1 (see *O.C.G.A. § 50-18-70*). 1980 Op. Att'y Gen. No. 80-84 (decided under former Ga. L. 1972, p. 575).

**WRITTEN MEMORIALS OF FINAL ACTION DISCLOSABLE.** --Investigative materials that are not prepared and kept as written memorials of final board action should not be disclosed to the public. However, those portions of board



meeting minutes which deal with final action taken as to a particular applicant may be disclosed. 1980 Op. Att'y Gen. No. 80-84 (decided under former Ga. L. 1972, p. 575).

**INSURER'S INDIVIDUAL LOSS RATIO EXPERIENCE.** --Unless statistical information as to insurer's individual loss ratio experience submitted to Insurance Commissioner constitutes "written memorials of a final action" taken by the Insurance Department, a citizen does not have the right to inspect the information submitted as a public record and the Insurance Commissioner is not required to release it. 1981 Op. Att'y Gen. No. 81-66.

**MEETINGS OF ORGANIZED CRIME PREVENTION COUNCIL.** --Since the Organized Crime Prevention Council is a law enforcement agency, its proceedings and meetings are not required to be open to the public under the Georgia Open Meetings Statute. 1986 Op. Att'y Gen. No. U86-35 (decided under former Ga. L. 1972, p. 575).

**APPLICATION TO THE DRUG UTILIZATION REVIEW BOARD.** --Open Meetings Act, *O.C.G.A. § 50-14-1*, applies to the Drug Utilization Review Board created by the Georgia Department of Community Health. 2010 Op. Att'y Gen. No. U10-1.

**SCHOOL BOARD MEETINGS REGARDING PERSONNEL MATTERS.** --School board may not close any meeting devoted to the airing of grievances about school personnel by interested members of the public; further, should the board conduct an inquiry into the actions of school personnel, any evidence or argument presented to the board must be held in an open meeting, but the board may close that portion of the meeting consisting of deliberation or discussion of disciplinary action upon proper compliance with the statutory closure provisions. 1995 Op. Att'y Gen. No. U95-15.

**STUDENT DISCIPLINARY HEARINGS** before local boards of education, including any deliberations of the board at which final action is taken or discussed, are required to be open to the public. 1983 Op. Att'y Gen. No. 83-9.

**MEETINGS BY TELEPHONE CONFERENCE CALL.** --Meetings of the Stone Mountain Memorial Association may be conducted by speaker telephone conference where public access is provided. 1985 Op. Att'y Gen. No. 85-26, modifying 1970 Op. Att'y Gen. No. 70-122.

Utilization of a telephonic conference is permissible for a regular meeting of the State Properties Commission; such a meeting may be conducted to meet the requirements of the Open and Public Meetings Act, *O.C.G.A. Ch. 14, T. 50*, and members participating by telephonic means in such a meeting may be counted to reach a quorum. 1994 Op. Att'y Gen. No. 94-11.

**STATE ETHICS COMMISSION** is an "agency" as contemplated by *O.C.G.A. Ch. 14, T. 50*. 1989 Op. Att'y Gen. No. 89-6.

The State Ethics Commission activities conducted in accordance with *O.C.G.A. § 21-5-6(b)(10)(A)*, including convening a quorum to hear testimony, taking evidence, considering argument of the parties, deliberating, and imposing penalties, constitute a "meeting" within the meaning of Open Meetings Law, *O.C.G.A. Ch. 14, T. 50*. Accordingly, the commission must conduct all of these activities regarding the resolution of a contested case in accordance with the dictates of the Open Meetings Law. 1989 Op. Att'y Gen. No. 89-6.

**PRIVATE INDUSTRY COUNCILS** are "agencies" for purposes of the Open Meetings Law, *O.C.G.A. Ch. 14, T. 50*, and records generally maintained by such PIC's are subject to the Open Records Law, *O.C.G.A. § 50-18-70*. 1989 Op. Att'y Gen. No. 89-5.

## RESEARCH REFERENCES

ALR. --Emergency exception under state law making proceedings by public bodies open to the public, *33 ALR5th 731*.

Attorney-client exception under state law making proceedings by public bodies open to the public, *34 ALR5th 591*.

Title Note Chapter Note