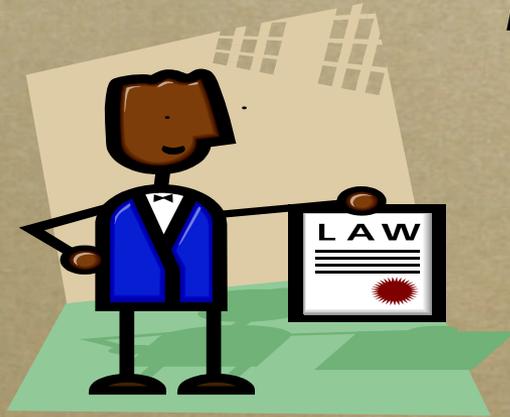


Board Member Training – 2014

for
Special Service Districts &
Local Districts



Outline

- *Open Meetings*
 - *Statutory Requirements*
 - *Agendas*
 - *Minutes*
- *Board Governance*
 - *Legislative Auditor General*
 - *Board Member Qualifications*
 - *Board Responsibilities*
- *Ethics*
- *Nepotism*
- *Local District Taxation*
- *Transparency*
- *Government Records (GRAMA)*
- *Personnel*



Board Governance

- *Legislative Auditor General Findings*
 - *Lack of Acceptable Governance*
 - *Inadequate Policies and Procedures*
 - *Ineffective Standards or Performance Measures*
 - *Insufficient Reporting Data*

Board Governance

■ *Acceptable Governance*

■ *The Board Should...*

- *Establish Vision and Mission*
- *Insure Harmony between Mission and Functions established in Statute*
- *Establish Desired Outcomes*
- *Establish Policies and Procedures*
- *Avoid Micro-Management*
- *Review Overall District Performance*

Board Governance

- *Inadequate Policies and Procedures*
 - *Establish Clear Written Policies and Procedures.*
 - *Periodically review to insure compliance with statute and harmony with mission.*
 - *Insure that Policies and Procedures are understood and implemented.*

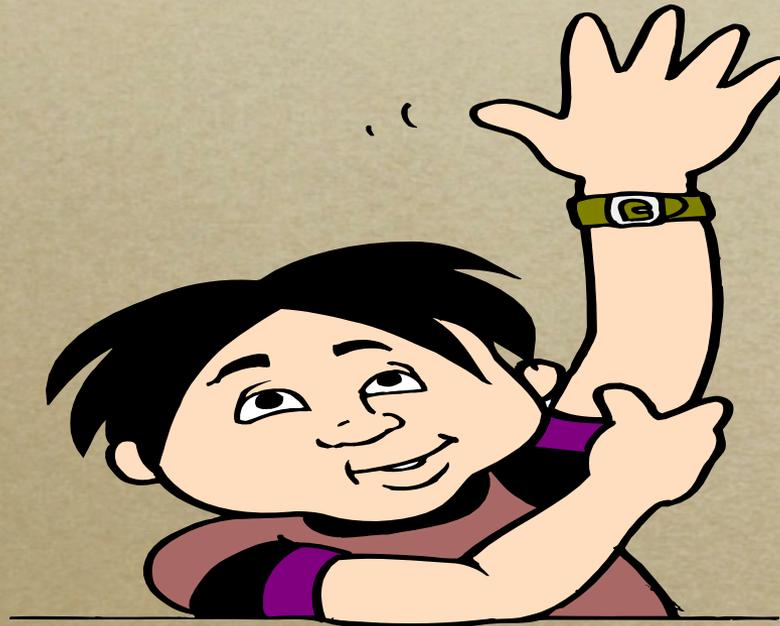
Board Governance

- *Ineffective Standards or Performance Measures*
 - *Establish effective standards and/or performance measures.*
 - *Periodically review to insure effectiveness of standards and/or performance measures.*

Board Governance

- *Insufficient Reporting Data*
 - *Evaluate available data.*
 - *Expand data gathering or data-system capability if necessary.*
 - *Structure data so as to effectively communicate the entity's effectiveness in achieving standards and/or performance measures.*

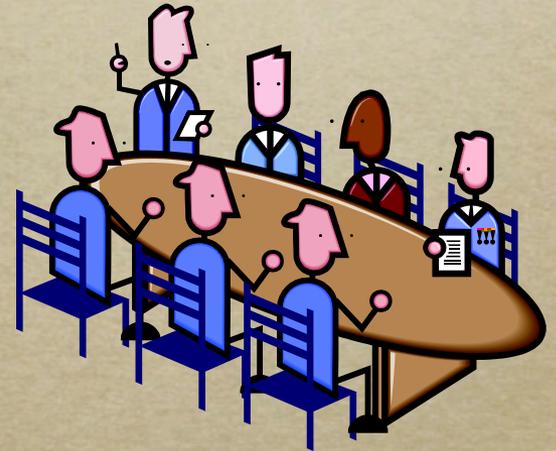
Questions



Board Governance - Local Districts

- ***Board Member Qualifications*** (17B-1-302)
 - *Must be a registered voter at the location of the members residence*
 - *A resident within the boundaries of the district*

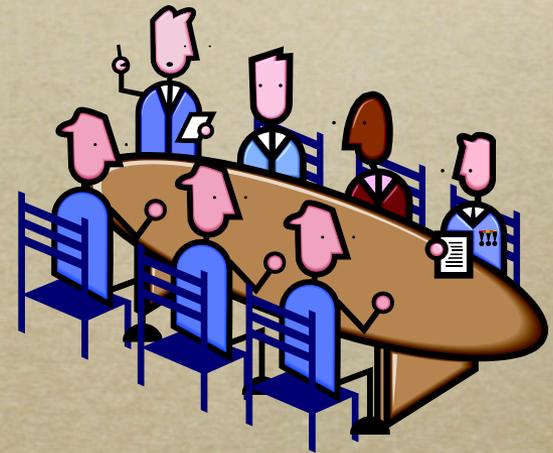
- ***Exceptions - if over 50% of the residences are seasonally occupied homes...***
 - *Owner (or agent) of land within the district*
 - *Receives service from the district*



Board Governance- Special Service Districts

- *Administrative Control Board Member Qualifications (17D-1-304)*
 - *Must be a registered voter within the special service district, or*
 - *An officer or employee of the creating entity*

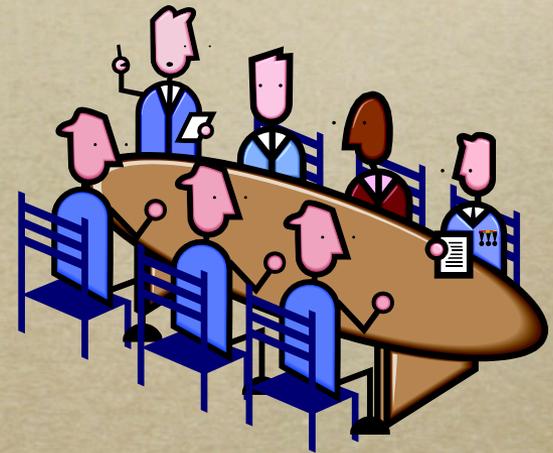
- *Exceptions (17D-1-303 & 304)*
 - *At least 90% of real property owners are not registered voters within the SSD*
 - *Elected or appointed as provided in 17B-1 Part 3, Board of Trustees*
 - *Exception for Improvement Districts*



Board Governance

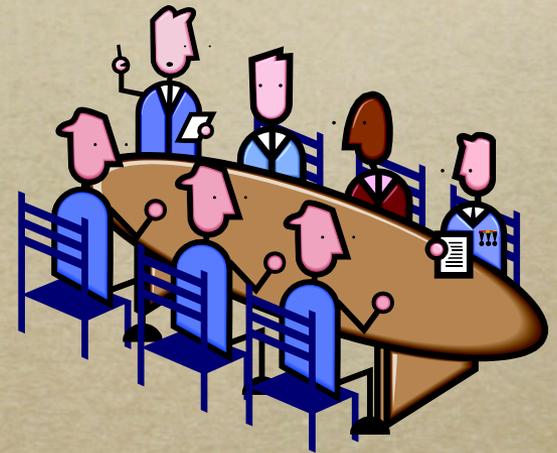
- *Board Member Terms*

- A local district board member continues to serve until a successor is duly elected or appointed. (2013 SB 200)



Board Governance

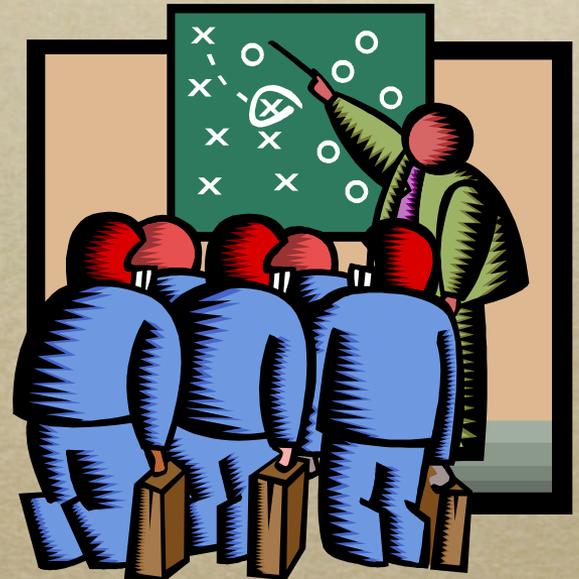
- An appointing authority not subject to certain notice requirements “if” they appoint one of its own members. (2013 SB 200)



Public Official Contact Information

(Utah Code 11-47-103)

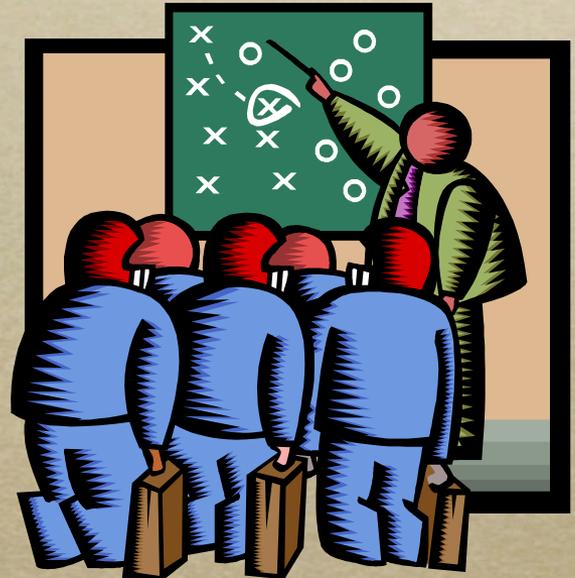
- *Requires that an elected official and community council member have:*
 - *Telephone number, if available, where they may be reached directly.*
 - *Email address, if available, where they may be reached directly.*
- *This information is a public record*



Training Requirements

(Utah Code 52-4-104)

- *Open Meetings*
 - *The presiding officer of the public body ensure that the members of the public body are provided with annual training on the requirements of the Open and Public Meetings Act*



Training Requirements

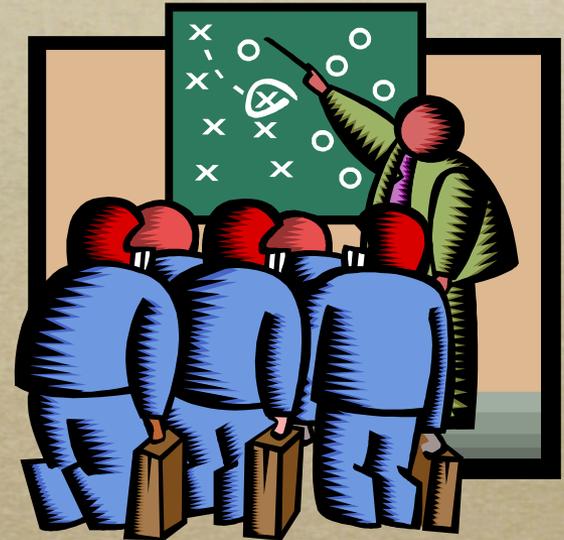
(Utah Code 52-4-104)

■ *General Training* *(Utah Code 17B-1-312)*

- *Within one year of appointment or election complete State Auditors Office/UASD training*

■ *GRAMA*

- *Records officers to be trained*
 - *Annual certification required*



Board Member Compensation

(Utah Code 17B-1-307)

- *Annual compensation limited to \$5,000*
- *Plus per diem*
 - *Up to 12 meetings annually*
 - *Rate established by Division of Finance*
- *Plus expense reimbursement*
- *Plus \$100 per day for training (17B-1-312(3)(a))*



Board Member Compensation

- *Utah Code 17B-1-311 prohibits a member of a board from being employed by the district, whether as an employee or under contract*



Board Member Compensation

- Clarifies that if a district pays employer-matching taxes for a board member under board-member compensation, matching taxes do not constitute compensation under the statute. (2013 SB 200)



Board Member Compensation

- *Reporting of compensation paid to board member:*
 - 1099
 - *Who controls what the worker does and how he/she does the job?*
 - *Tools, supplies, financial aspects*
 - *Type of relationship, ie. contracts, benefits, key business function?*

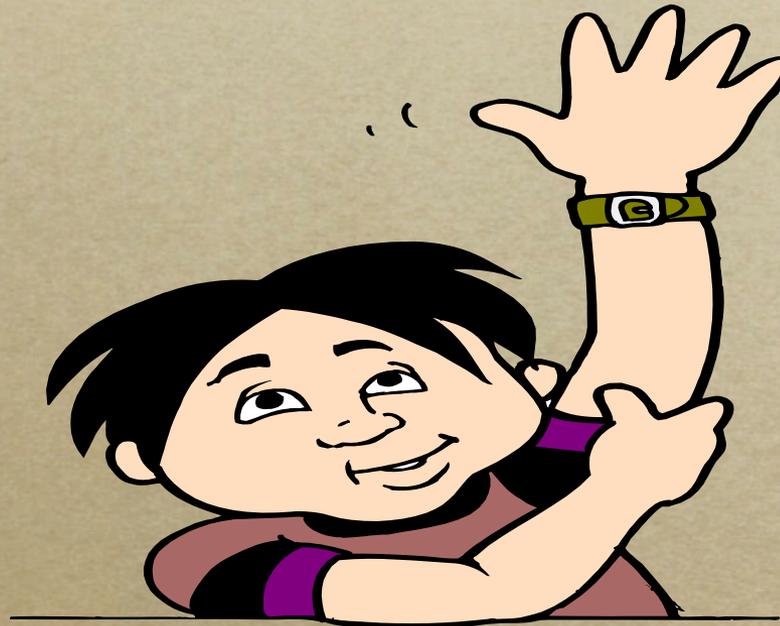


Board Member Compensation

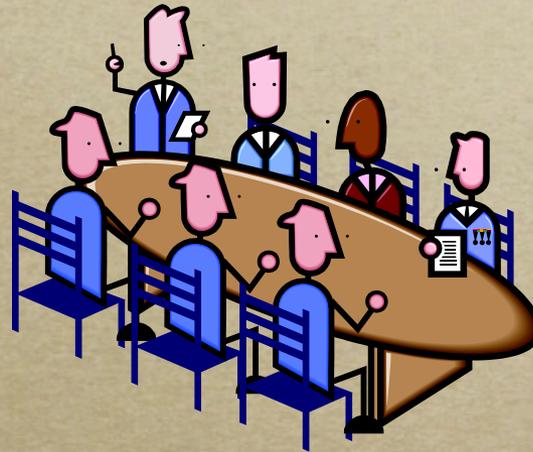
- *Reporting of compensation paid to board member:*
 - *Continued* -
 - *W-2*
 - *employee*
 - *subject to statutory limitations*



Questions



Meeting Notice Requirements



Annual Meeting Notice Requirements

(52-4-202)

- *Regular meetings that are scheduled in advance over the course of a year shall...*
 - *Provide public notice of annual meeting schedule at least once each year*
 - *Specify the date, time and place of each scheduled meeting*



Annual Meeting Notice Requirements

(52-4-202)

- *Annual Meeting Notice is satisfied by:*
 - *Posting written notice at the principal office of the public body.
(If no such office exists, post at the building where the meeting is to be held.)*
 - *Post on the Utah Public Notice Website.*
 - *Provide notice to a local newspaper of general circulation within the area, or a local media correspondent.*



Regular Meeting Notice Requirements

(52-4-202)

- *Regular meeting agendas*
– *Provide 24-hours public notice*
- *If not a regular meeting, provide 24-hours public notice*



Regular Meeting Notice Requirements

(52-4-202)

- *Utah Public Notice Website*

- *Posting on the Website is required to comply with the Open Meetings Law*

(52-4-202 (1)(b)(i))



Regular Meeting Notice Requirements

(52-4-202)

- *Utah Public Notice Website*

<http://pmn.utah.gov>

- Contact Information

Heidi Stringham

*Utah Public Meeting Notice
Website Administrator*

Division of Archives

[*hstringham@utah.gov*](mailto:hstringham@utah.gov)

801-531-3847



Notice Requirements – Public Hearing vs. Public Meeting

Requirement	Regular Meeting	Public Hearing
<i>Media</i>	<p><i>Must <u>notify</u> at least one newspaper of general circulation within the district's boundaries, or a local media correspondent.</i></p> <p><i><u>May use the Utah Public Notice Website to provide notice to the media by auto-email notification.</u></i></p>	<p><i>Must <u>publish</u> notice in at least one issue of a newspaper of general circulation in which the district is located.</i></p>

Notice Requirements – Public Hearing vs. Public Meeting

Requirement	Regular Meeting	Public Hearing
<i>Posting</i>	<p><i>Post written notice at the principal office of the public body, or if no such office exists, at the building where the meeting is to be held.</i></p> <p><u><i>Must post on Utah Public Notice Website</i></u></p>	<p><i>If a newspaper of general circulation is not available, then post written notice in three public places within the district.</i></p>

Notice Requirements – Public Hearing vs. Public Meeting

<i>Requirement</i>	<i>Regular Meeting</i>	<i>Public Hearing</i>
<i>Number of Days</i>	<i>At least 24 hours before meeting</i>	<p><i>At least seven days prior to the hearing.</i></p> <p><i>For a <u>tax increase</u>, notice must be published at least once each week for the two weeks preceding the adoption of the final budget.</i></p> <p><i>(59-2-919)</i></p>

Notice Requirements – Public Hearing vs. Public Meeting

<i>Requirement</i>	<i>Regular Meeting</i>	<i>Public Hearing</i>
<i>Meeting Time</i>	<i>Not Specified</i>	<p><i>For a <u>tax increase</u> or <u>fee adoption</u> or <u>increase</u>, the public hearing “...shall be held in the evening beginning no earlier than</i></p> <p><i>6:00 pm.”</i></p> <p><i>(59-2-919(8)(e) & 17B-1-643(1)(b))</i></p>

Meeting Agendas



Open Meeting Agenda (52-4-202(6))

Meeting Agenda must include:

- *Reasonable specificity.*
- *Each topic shall be listed under an agenda item.*
- *May only discuss a topic not listed on the agenda, if it is raised by a member of the public. (52-4-202(6)(b))*
- *May not take final action on any topic or item that is not on the agenda.*



Emergency Meetings

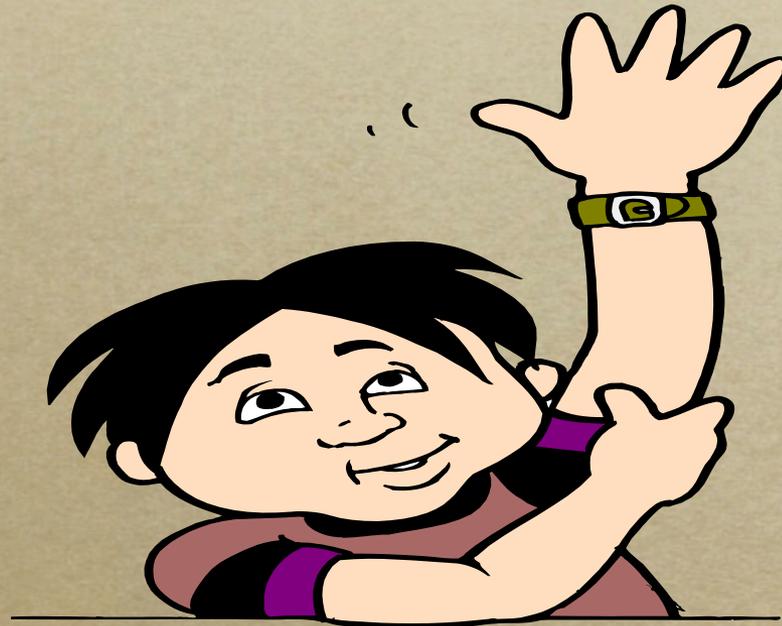
(52-4-202(5))

May be held if:

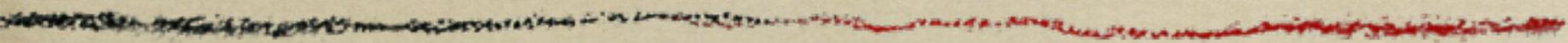
- *Unforeseen circumstances*
- *Give best practicable notice of:*
 - *Date, time and place*
 - *Items to be considered*
- *Attempt to notify all board members*
- *Majority approve of the meeting*
- *Final action may be taken...*



Questions



Open Meetings



*Let the people know the facts
and the country will be safe.*

Abraham Lincoln

Open Meetings Law (Utah Code 52-4-104)

- *Open Meetings -Training*

- *The presiding officer of the public body ensure that the members of the public body are provided with annual training on the requirements of the Open and Public Meetings Act*



Open Meetings Law (Utah Code 52-4)

- *Open meeting – defined*

- *With a quorum present, an Open Meeting*

Includes:

- *Workshops*
- *Executive Sessions*

- *Does not include:*

- *Chance Meetings*
- *Social Meetings*



Open Meetings Law (Utah Code 52-4)

■ *Electronic Meetings*

- *Statute requires that a policy for electronic meetings be adopted if electronic meetings are to be held*
- *Statute provides recommendations as to the areas to be considered*



Open Meetings Law (Utah Code 52-4-209)

■ *Electronic Communications in Public Meetings*

- *An “Electronic Message” includes:*
 - *Electronic mail, instant messaging, electronic chat, text messaging, or other means of electronic messaging.*
- *A member of a public body may transmit an electronic message to other members of the public body when the public body is not convened in an open meeting.*



Closed Meetings (52-4-205)

Closed Meetings (52-4-205)

- *A Closed Meeting is closed to the public and to the press.*

- *A Closed Meeting may be convened **only** for specific purposes as defined in statute.*

Closed Meetings - Purposes (52-4-205)

- *The character, competence or health of an individual*
- *Deployment of security personnel, devices or systems*
- *Collective bargaining issues*



Closed Meetings - Purposes (Continued)

- *Pending or reasonably imminent litigation.*
- *Investigative proceedings regarding allegations of criminal misconduct.*



Closed Meetings - Purposes (Continued)

- *Purchase, exchange, lease, or sale of real property, including any form of a water right or water shares, if: ...*
 - *...such discussion prevents the district from completing a transaction on the best possible terms.*



Closed Meetings - Purposes (Continued)

- *Information that is required to maintained as Private or Protected by the Procurement Statute, including trade secrets.*
 - *at the time of the procurement process*
 - *...unless otherwise required to permanently be maintained as protected.*



Closing a Meeting - Procedures

- *How to enter a Closed Meeting*
 - *May enter only from a properly noticed open meeting.*
 - *Motion to enter a closed meeting.*
 - *Two-thirds vote required of board members present at an open meeting.*
- *No board action may be taken in a closed meeting.*



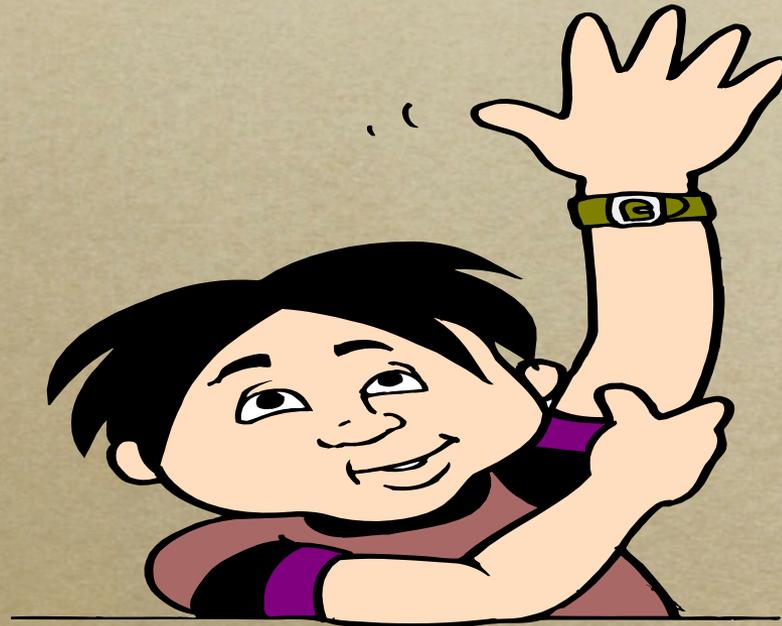
Closing a Meeting - Procedures

Publicly announce and record the motion to convene a Closed Meeting

- *Clearly state the reason for closing the meeting*
- *Record the location of closed meeting*
- *Record the vote of each board member*



Questions



Board-Meeting Minutes

Closed Meeting Minutes

Versus

Open Meeting Minutes



Closed Meetings - Minutes

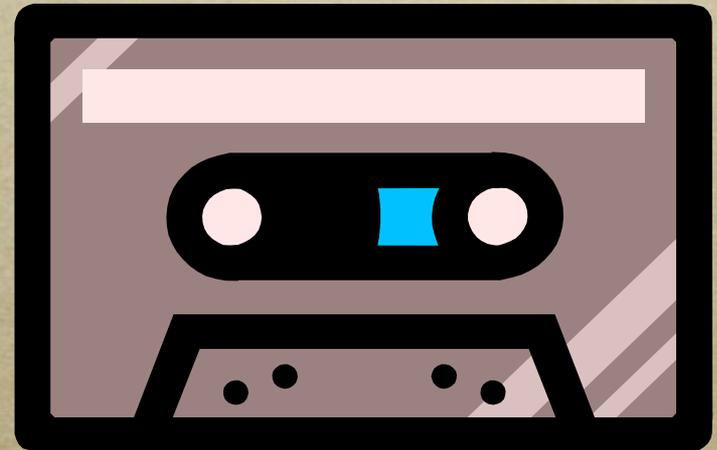
- *No recorded minutes are required if the meeting is closed to discuss:*
 - *The character, competence or health of an individual, or*
 - *The deployment of security personnel, devices, or systems,*
- *In lieu, requirements are:*
 - *Sworn written statement*



Closed Meeting - Minutes

*All other closed meetings
require that:*

- *The board must record the closed portion of the meeting: and*
- *Entity may keep detailed written minutes. (Utah Code 52-4-7.5)*



Content of Closed Meeting Minutes

- *Closed meeting minutes shall include:*
 - *Date, time and place of the meeting*
 - *Names of board members present and absent*
 - *Names of all others present*



Closed Meeting Minutes continued...

- *Closed meeting minutes are protected records.*
- *Retention of closed-meeting recordings according to Archives Records Retention Schedule.*



Closed Meetings

Criminal Penalty

- *Class B misdemeanor for any member of a public body who knowingly or intentionally violates, or who knowingly or intentionally abets, or advises a violation of any of the closed meeting provisions. (UCA 52-4-12)*

Open Meeting Minutes



Open Meeting Minutes (52-4-203(7))

Written minutes and an audio recording are required, except for the following where either written or audio minutes are allowed:

- *During a site visit or traveling tour where no vote or action is taken.*
- *SSD or LD where annual budgeted expenditures for all funds are \$50,000 or less.*



Open Meeting Minutes continued...

- Open meeting **recordings** (audio or video) are public records.
- Open meeting **written minutes** are public records.



Open Meeting Minutes continued...

- An audio or video **recording** of an Open Meeting **must be converted** to written minutes.



Open Meeting Minutes continued...

- *Electronic recordings of an open meeting shall be available to the public for listening within 3 business days after the end of the open meeting.*



Open Meeting Minutes continued...

- *Pending Minutes*
 - *Are written minutes of an open meeting*
 - *... Prepared in draft form and are subject to change before approval*
 - *Shall be available within a reasonable time*



Open Meeting Minutes continued...

■ *Pending Minutes*

- *...made public before approval shall be clearly labeled as “unapproved”, etc.*
- *Boards are to establish procedures for approval of written minutes of each public meeting.*



Open Meeting Minutes continued...

- *Approved Open Meeting Written Minutes:*
 - *Are the official record of action taken.*
 - *Permanent Records*
 - *Must be properly labeled*



Open Meeting Minutes continued...

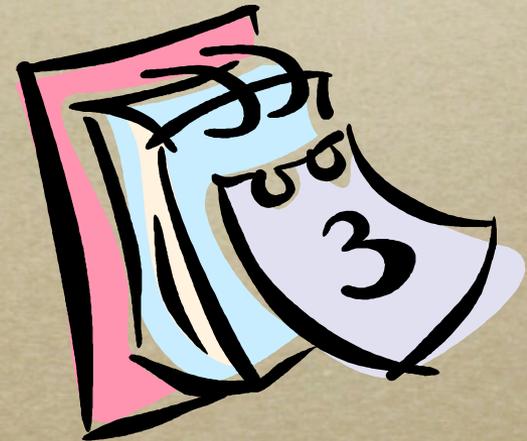
- *Open Meeting Recordings must be:*
 - *Retained for 24 months **after** adoption of the written minutes.*



Content of Open Meeting Minutes

Open meeting minutes shall include:

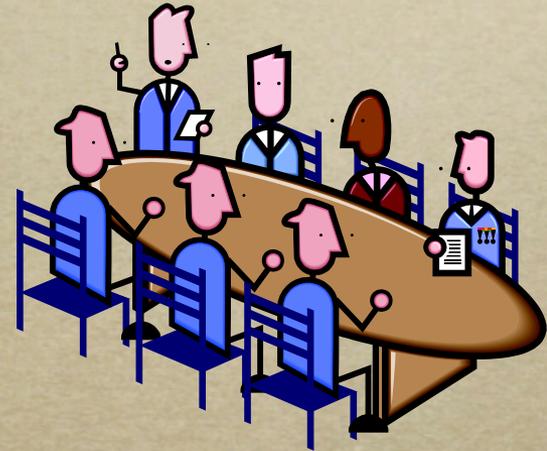
- *Date, time and place of the meeting;*
- *Names of board members present and absent;*
- *Substance of all matters proposed, discussed, and decided;*



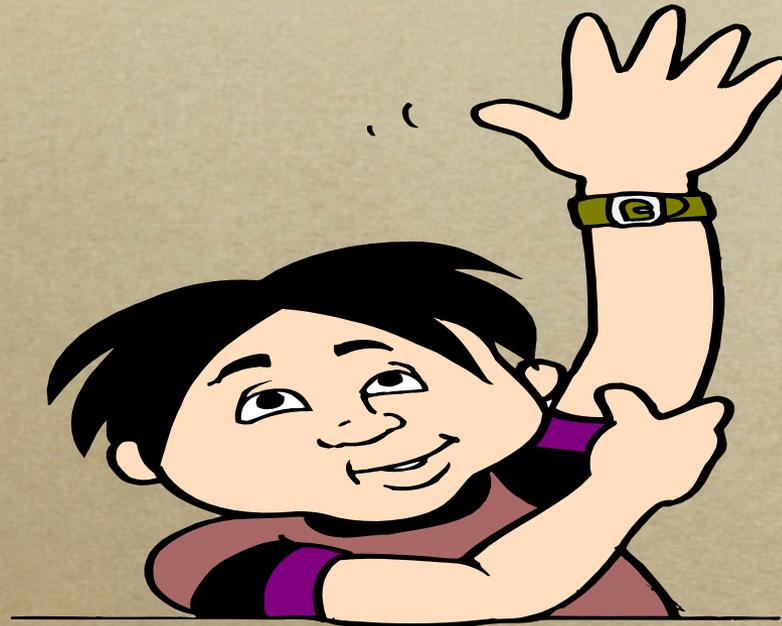
Content of Open Meeting Minutes

Open meeting minutes shall include:

- *Votes taken by individual members;*
- *Names of all citizens who appeared and the substance of their testimony;*
- *Any other information that any member requests to be entered in the minutes.*



Questions



Ethics

*We have committed the
Golden Rule to memory;
let us now commit it to life.*

Edwin Markham

Ethics *(Utah Code 67-16)*

- *Cannot accept or solicit:*
(Utah Code 67-16-5)

- *Gifts*

- *Occasional non-cash gift of less than \$50 - okay*
- *Award publicly presented for public service - okay*

- *Compensation*

- *Loans*



Ethics *(Utah Code 67-16)*

- *State Officers and Employees Ethics Act applies to all public officers, public employees, or legislators.*



Ethics *(Utah Code 67-16)*

Conflicts of Interest

- *Require full disclosure*
(Utah Code 67-16-7)
- *May not have personal investment in any business entity which will create a substantial conflict between private interests and public duties.* *(Utah Code 67-16-9)*



Ethics *(Utah Code 67-16-12, 14)*

■ *Penalties:*

- *Termination of employment*
- *Removal from office*
- *2nd degree felony, if total value of compensation, etc., exceeds \$1,000*

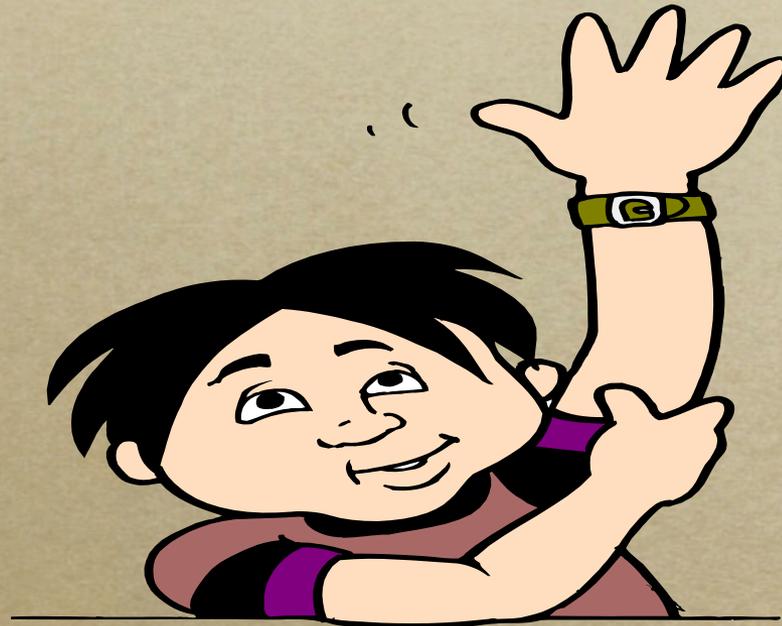


Ethics *(Utah Code 67-16-12, 14)*

- *Title 67 Utah Public Officers' and Employees Ethics Act*
- *Procurement Code - ethics provisions*
 - *Procurement Participants*



Questions



Nepotism

*We promote family values here
almost as often as we promote
family members.*

Larry Kersten

Nepotism (Utah Code 52-3-1)

- Public officer may not employ, appoint, vote for, or recommend a relative for employment
- Public officer may not directly supervise a relative



Nepotism (Utah Code 52-3-1 (1) (d))

Relative Defined

- *Father, Mother*
- *Husband, Wife*
- *Son, Daughter*
- *Sister, Brother*
- *Aunt, Uncle*
- *Nephew, Niece*
- *First Cousin*
- *Mother-in-law, Father-in-law*
- *Brother-in-law, Sister-in-law*
- *Son-in-law, Daughter-in-law*



Nepotism

(Utah Code 52-3-1 (2)(a))

■ *Exceptions In Towns & Rural Areas*

- *In a town, this chapter shall not apply to the employment of uncles, aunts, nephews, nieces, or cousins.*

- *(2) This chapter shall not apply to the employment of a relative if:*
 - *(a) fewer than 3,000 people live within 40 miles of the primary place of employment.*

 - *(b) the job opening has had reasonable public notice; and*

 - *(c) the relative is the best qualified candidate for the position.*



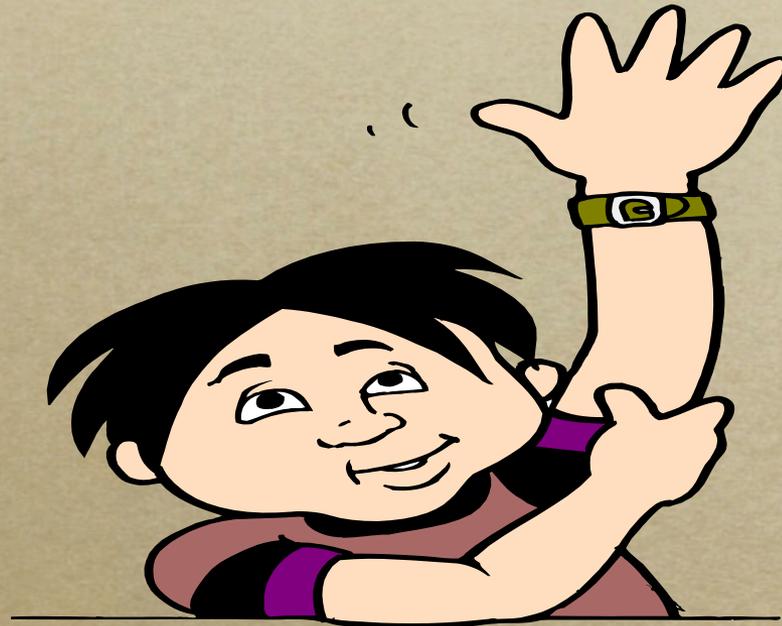
Nepotism (Utah Code 52-3-2 & 3)

■ *Penalties*

- *Each day a relative is retained in office represents a separate offense.*
- *Each violation of this section is a misdemeanor offense.*



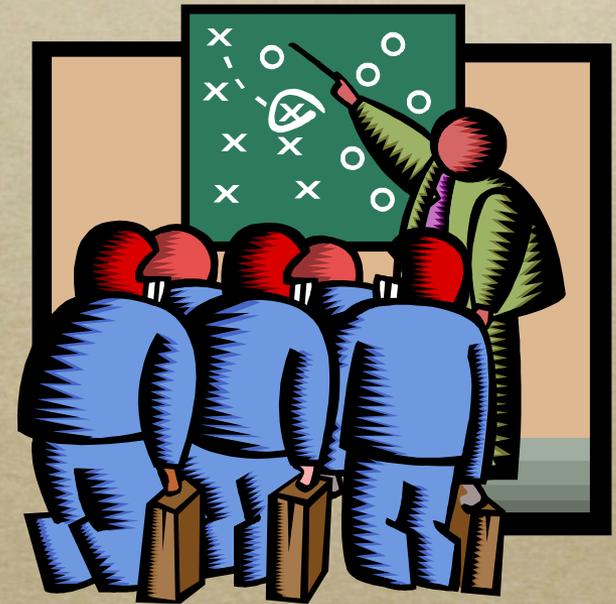
Questions



Local District Taxation Authority

(17B-1-1001)

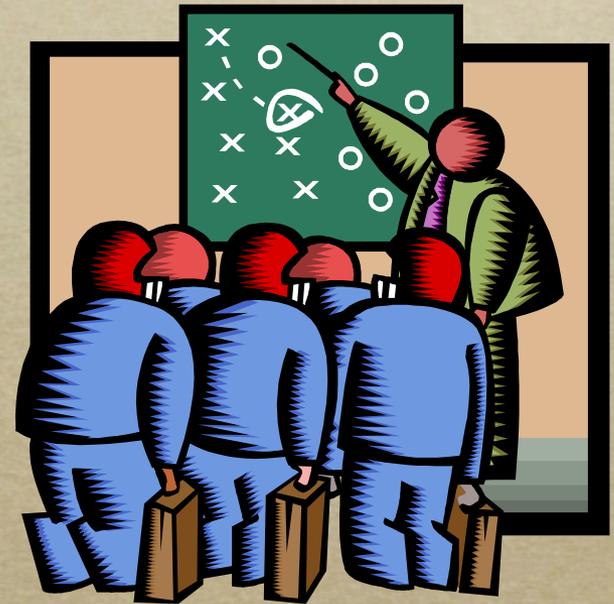
- *Each local district that levies and collects a property tax must do so in accordance with the provisions of the Property Tax Act, 59-2 UCA*
- *Truth in Taxation, etc.*



Local District Taxation Authority

(17B-1-1001)

- *A Local District may not levy and collect property tax that exceeds the certified rate, unless:*
 - *Property Tax Revenue was pledged before January 1, 2011, to pay for bonds or other obligations of the district.*
 - *Members of the board of trustees are all elected officials.*



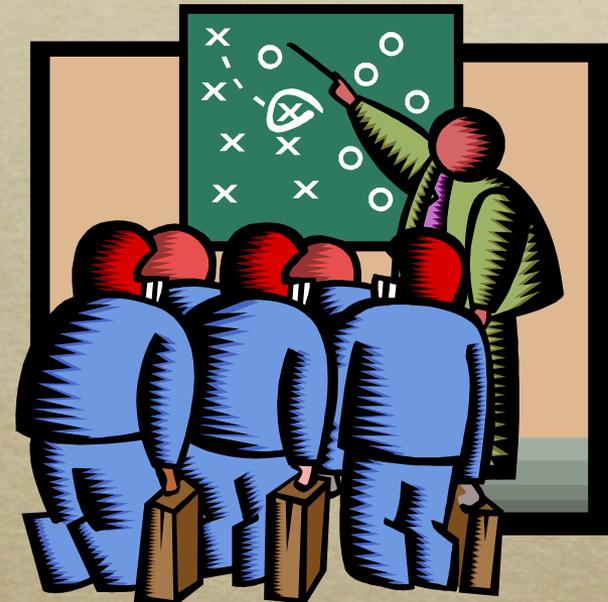
Local District Taxation Authority

(17B-1-1001)

- *or* -

- *The majority of the board of trustees are elected officials.*

- *ie. holds at the time of appointment an elected position with a municipality, county or another local district that is partially or completely within the district boundaries.*

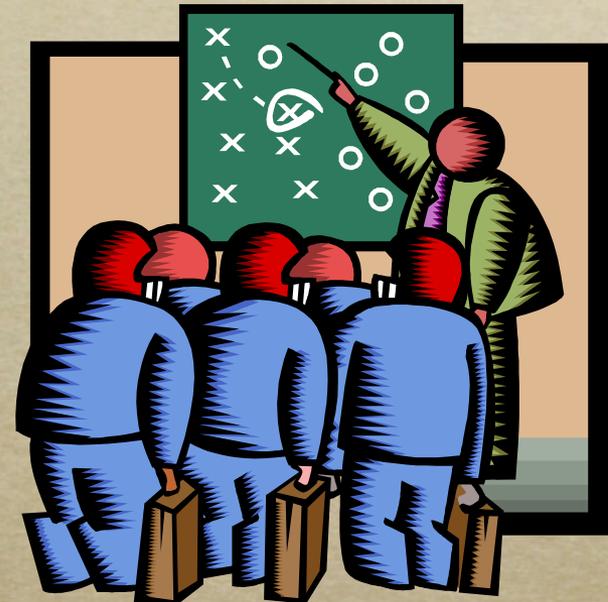


Local District Taxation Authority

(17B-1-1001)

- or -

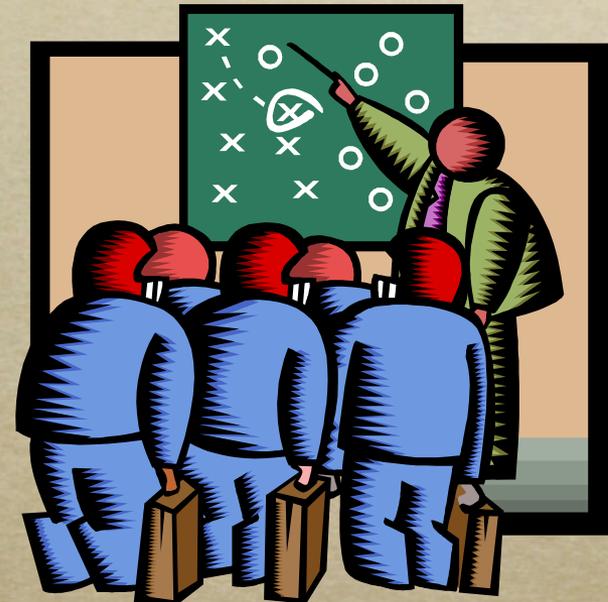
- *The proposed tax or increase has been approved by a majority of registered voters within district, or*
- *The legislative body of the appointing authority, or*



Local District Taxation Authority

(17B-1-1001)

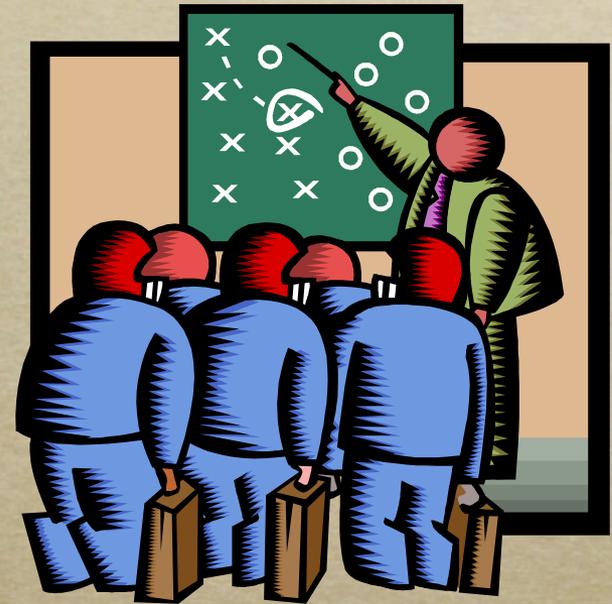
- *The proposed tax or increase has been approved by the legislative body of:*
 - *The majority of municipalities within the district, or*
 - *The county within which the district is located*



Local District Taxation Authority

(17B-1-1001)

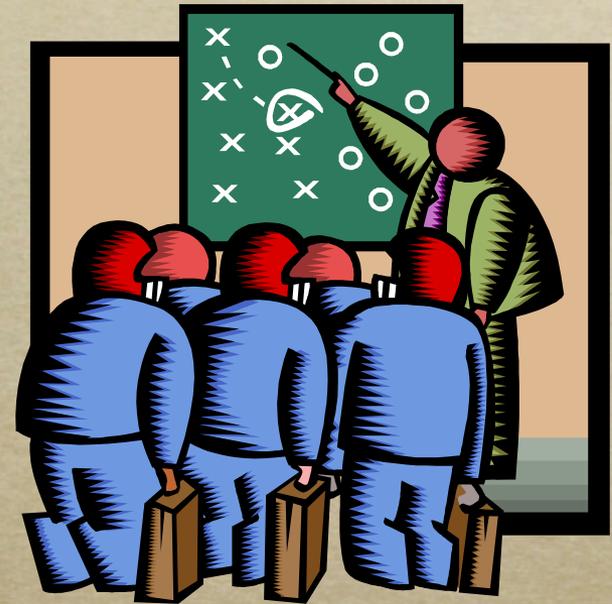
- *Some exceptions apply to water conservancy districts (17B-2a-604)*
- *Some exceptions apply to metropolitan water districts. (17B-2a-608)*



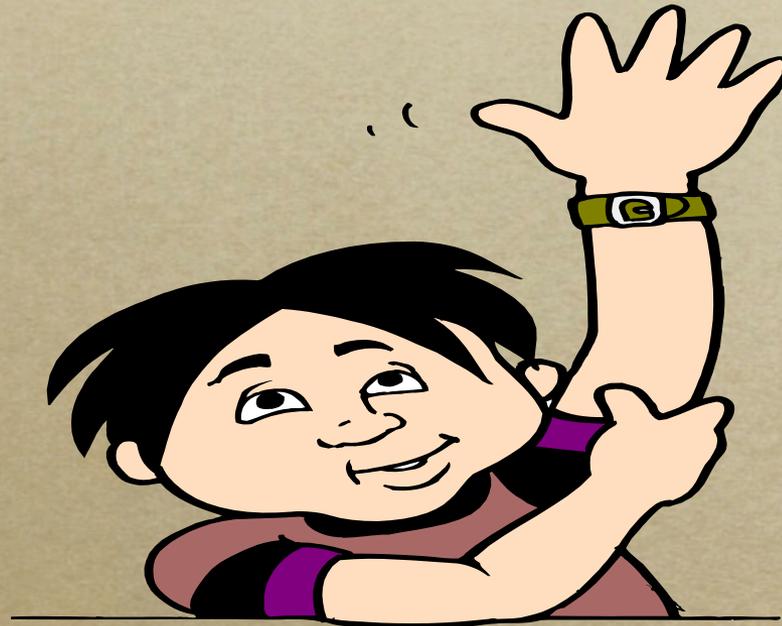
Local District Fee Assessment

(17B-1-643)

- *Imposing or increasing a fee for a service provided by a special service district or a local district*



Questions



District Transparency Requirements

(Utah Code 63A-3)

Transparency in Government

- *Utah Public Finance Website*
 - *transparent.utah.gov*

- *Utah Transparency Advisory Board*
 - *Established policy governing transparency guidelines and requirements*



District Transparency Requirements

(Utah Code 63A-3)

Utah Transparency Website

- *Local and Special Service District Compliance*
 - *Budgets at or over \$1,000,000*
 - *Payroll information*
 - *Expenditure information*



District Transparency Requirements

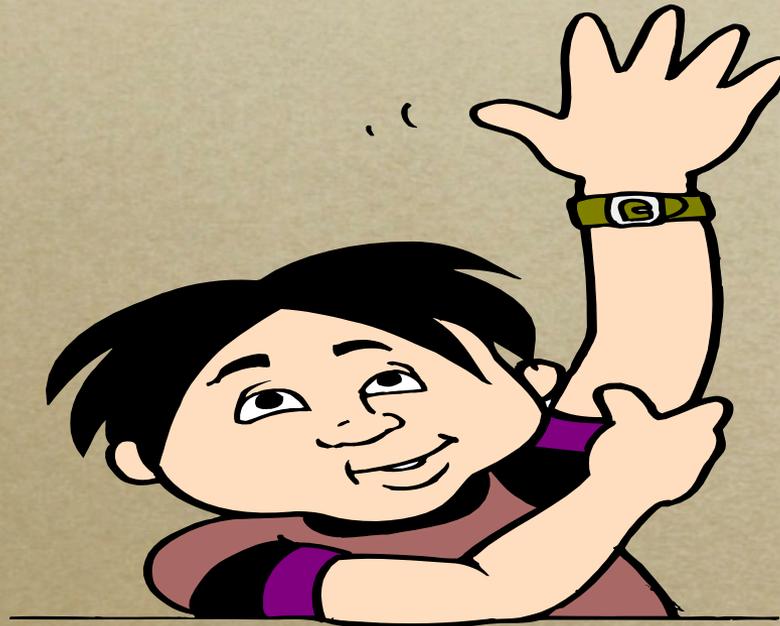
(Utah Code 63A-3)

Contact Information

- Contact Dept. of Finance at:
 - transparency@utah.gov
- Brenda Lee
Utah Division of Finance
801-538-3102



Questions



GRAMA (Title 63G-2)

The Act recognizes two constitutional rights:

- 1. The public's right to access information concerning the conduct of the public's business.*
- 2. The right of privacy in relation to personal data gathered by governmental entities.*



Four Categories of Records

- *Public*
- *Private*
- *Controlled*
- *Protected*



Public Records

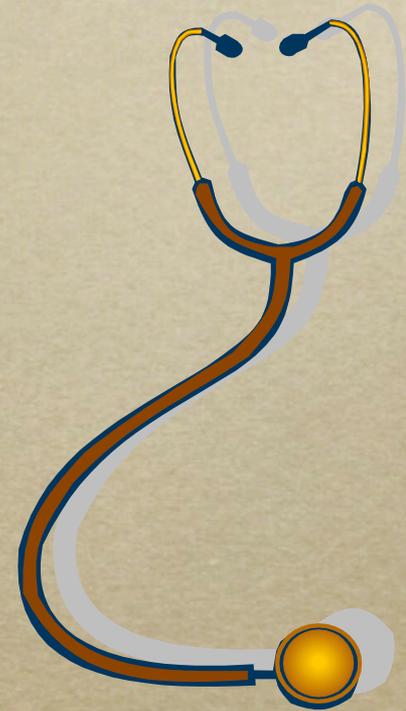
Records which are open to everyone include:

- *minutes from open meetings*
- *compensation paid to a contractor*
- *names, gender and gross compensation paid to public employees.*



Private Records

- *Information about individuals that may only be accessed by those individuals and others specified in UCA 63-2-202.*
 - *Unemployment insurance, social services and welfare benefits.*
 - *Medical history, diagnosis, condition, treatment, evaluation (medical records).*
 - *Public employees home address, home telephone number, social security number, marital status.*



Controlled Records

- *Records that may only be released to certain individuals such as social workers and health care providers and may not be disclosed to the individual to whom they pertain.*
 - *Medical, psychiatric, or psychological data*
 - *Information detrimental to the subject's mental health or to the safety of any individual.*



Protected

- *Non-personal data that may only be released to the person who submitted the information.*
 - *Trade secrets*
 - *Test questions and answers*
 - *Records that would jeopardize the life or safety of an individual*
 - *Records that would jeopardize the security of a correctional facility*



Access

- *Do not allow individuals to thumb through records*
- *Requests should be specific*
- *Recommended that records requests be in writing*



Fees

- *Adopt a uniform fee structure which could include charges for:*
 - *making copies or*
 - *an hourly research fee*
- *Fees should cover costs and be reasonable*



Record Retention

Record	Classification	Retention
<i>Meeting Minutes</i>	<i>Public</i>	<i>Permanent</i>
<i>Meeting Agenda</i>	<i>Public</i>	<i>2 Years</i>
<i>Annual Financial Reports</i>	<i>Public</i>	<i>Permanent</i>
<i>Budgets</i>	<i>Public</i>	<i>Permanent</i>
<i>Bank Statements</i>	<i>Public</i>	<i>4 Years</i>
<i>General Ledger</i>	<i>Public</i>	<i>10 Years</i>

Record Retention continued ...

Record	Classification	Retention
<i>Timesheets</i>	<i>Public</i>	<i>3 Years</i>
<i>A/R & A/P</i>	<i>Public</i>	<i>4 Years</i>
<i>Deposit Slips</i>	<i>Public</i>	<i>4 Years</i>
<i>Check Register</i>	<i>Public</i>	<i>7 Years</i>
<i>Receipt Books</i>	<i>Public</i>	<i>3 Years</i>
<i>Fixed Asset Lists</i>	<i>Public</i>	<i>10 Years</i>

Training

- *Chief Administrative Officer shall: (UCA 63A-12-103(3))*
 - *Ensure that all officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of GRAMA*



GRAMA Questions?

- *What storage services are available?*
- *What training is available?*
- *Where can I obtain useful forms?*
- *How to handle record requests?*
- *How long to keep records?*
- *How can I obtain assistance?*



www.archives.state.ut.us

GRAMA Questions?

*Contact Information for Local and
Special Service Districts:*

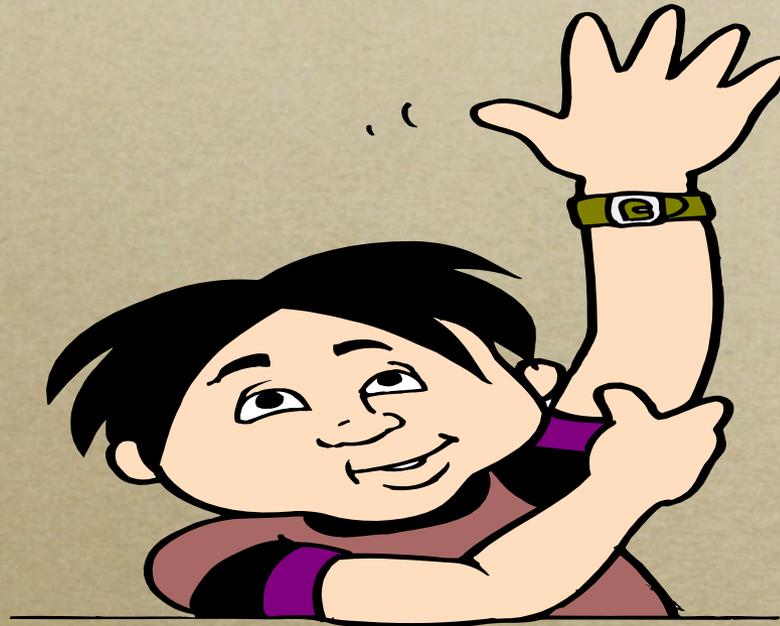
Rosemary Cundiff

801-531-3866

rcundiff@utah.gov



Questions



Utah Association of Special Districts

LeGrand Bitter, Executive Director

801-614-0405 Office

801-725-1312 Cell

855-313-2360 Fax

www.uasd.org

uasdmail@yahoo.com