

Draft Meeting Agenda
South Dakota Board of Examiners of Psychologists
Video Conference
September 19, 2025, at 8:30 a.m. MDT / 9:30 a.m. CDT

The public is invited to attend the meeting via Microsoft Teams at the following link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MzYyNWE1YTYtY2Q4NC00ODcyLTgxZGMtZDdkYjI2N2NmZjZI%40thread.v2/0?context=%7b%22Tid%22%3a%22e69efb98-56ef-4797-a76b-e1ec658a639c%22%2c%22Oid%22%3a%22ee0a24e7-6d2c-4495-ade5-4377098865d2%22%7d

Or by calling: 1-469-770-0416, Passcode: 649714430#

If members of the public would like to be sent the Microsoft Teams invitation to the meeting instead of using the above link, please contact the Board office prior to the meeting at office@sdlicensing.com.

Note: Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Board office at office@sdlicensing.com or 605-642-1600 in advance of the meeting to make any necessary arrangements.

Member Listing:

1. Trisha Miller, Ph.D., President
2. Matthew Christiansen, Ph.D., Vice-President
3. Rosalie Ball, Ph.D., Secretary
4. Thomas Stanage, Ph.D., Member
5. Justine Ashokar, Ph.D.- Member
6. Terrance Dosch, Lay Member
7. Brian Roegiers, Lay Member

Purpose: The Board protects the health and safety of the consumer public by licensure of qualified persons, enforcement of the statutes, rules and regulations governing the practice of psychology, including the appropriate resolution of complaints.

1. Call to Order/Welcome and Introductions-Miller
2. Roll Call
3. Conflicts to declare
4. Corrections or additions to the agenda
5. Approval of the agenda
6. Public Testimony/Public Comment Period
7. Approval of the Minutes from May 2, 2025
8. FY Financial Update
9. Renewal Update
10. Board Member Appointments
11. Upcoming ASPPB Meetings
 - a. ASPPB Annual Meeting- Saint Louis, Missouri- October 22nd- 26th, 2025
 - b. ASPPB Midyear Meeting- Charlotte, North Carolina- April 16th-19th, 2025
 - c. ASPPB Annual Meeting- Reno, Nevada- October 14-18th, 2026

12. ASPPB Service Award Nomination-Update
13. Election of Officers—Future Slate after October 30, 2025
14. Online/Hybrid Psychology Programs- Discussion
15. Annual Review of Open Meeting Laws (SDCL 1-25-13)
16. Schedule Next Meeting
17. Executive Session-Pursuant to SDCL 1-25-2
 1. Complaints- if any
 2. Applicant Oral Examinations
 - a. Applicant #759
 - b. Applicant #762
 - c. Applicant #767
18. Applicant Approval
19. Any other business coming in between date of mailing and date of meeting
20. Adjourn

SOUTH DAKOTA BOARD OF EXAMINERS OF PSYCHOLOGISTS
BOARD MEETING MINUTES
Teleconference/Video Conference
May 2, 2025

Members Present: Trisha Miller, Ph.D., (President); Matthew Christiansen, Ph.D. (Vice President); Rosalie Ball, Ph.D., (Secretary); Thomas Stanage, Ph.D., Member; Justine Ashokar, Ph.D.; Member; Terry Dosch, Lay Member; Brian Roegiers, Lay Member.

Members Absent: None.

Others Present: Brooke Tellinghuisen Geddes, Executive Secretary; Katie Funke, Executive Assistant; Greg Tishkoff, Legal Counsel, DSS; Tracy Mercer, Special Projects Coordinator, DSS.

Call to Order/Welcome and Introductions: Miller called the meeting to order at 9:33am CDT.

Roll Call: Tellinghuisen Geddes called the roll. Miller, yes; Christiansen, yes; Ball, yes; Stanage, yes; Ashokar, yes; Dosch, yes; Roegiers, yes. A quorum was present.

Corrections or Additions to the Agenda: None.

Approval of the Agenda: Stanage made a motion to approve the agenda. Roegiers seconded the motion. MOTION PASSED by unanimous voice vote.

Public Testimony/Public Comment Period: None.

Approval of the Minutes from January 17, 2025 and April 4, 2025: Christiansen made a motion to approve the minutes from January 17, 2025, as written. Ball seconded the motion. MOTION PASSED by unanimous voice vote. Ball made a motion to approve the minutes from April 4, 2025, as written. Ashokar seconded the motion. MOTION PASSED by unanimous voice vote.

FY Financial Update: Tellinghuisen Geddes reported that as of March 31, 2025, year-to-date revenue was \$13,815.71, year-to-date expenses were \$49,005.42 and the year-to-date cash balance was \$101,529.51. Roegiers made a motion to accept the financial report as presented. Stanage seconded the motion. MOTION PASSED by unanimous voice vote.

ASPPB Mid-Year Meeting Report- Miller: Miller reported on the ASPPB Mid-Year meeting she recently attended. Major topics included the EPPP and master's level licensure. Miller reported that the EPPP will be a single test which will incorporate both skills and knowledge. The updated exam will not be ready until late 2026. There were no estimates on costs reported. Stanage questioned the prior opposition from Texas. Miller felt their concerns were likely addressed. Lastly, Miller reported that the name of the exam will not change, in effort to not require states to change their language in their regulations. Next, Miller reported on discussions around master's level licensure. Miller reported there have been concerns around APA accreditation of master's level licensure, as many feel their accreditation standards are not as robust as they once were, and some feel APA have lowered their expectations for Master's level psychologists. Miller explained the encouragement for states to recognize they don't have to utilize the APA or ASPPB model for licensure, and states will be able to adopt parts of their model language as they see fit. Miller complimented South Dakota's regulations as standing the test of time and allowing for flexibility and change. Miller encouraged the board to think about South Dakota's motivation for future licensing of master's level psychologists, and if it would sufficiently address shortage issues in rural communities. Stanage believes the board will inevitably need to

get on board with licensing at the master's level. Discussion on when programs will be available through universities was held. It is unknown when Universities will start offering master's level programs. Lastly, Miller mentioned that other topics that were addressed at the meeting were updates to the code-of-ethics and that South Dakota will likely need to adopt an updated version in the near future.

Master's Level Licensure-ASPPB: The Board did not discuss this further as this was addressed during the ASPPB mid-year meeting report.

ASPPB Service Award Nomination: Miller reported that she will be submitting the Board's nomination for Carol Tellinghuisen, former administrator, to ASPPB.

Application Review Officer: The board discussed the need for a new application review officer as Miller will be going off the Board in October. Miller advised she will be available to review applications with the new review officer until then. Following discussion, Ball volunteered to act as the application review officer.

Schedule Next Meeting: The next meeting is tentatively scheduled for Friday, September 19, 2025, at 8:30 MDT/9:30 CDT via Microsoft Teams.

Executive Session Pursuant to SDCL 1-25-2: Dosch made a motion to enter executive session at 10:11am CDT. Christiansen seconded the motion. MOTION PASSED by unanimous voice vote. All others exited the meeting. The board exited executive session at 11:05 am CDT.

Applicant Approval: Miller recommended applicant #756 be approved for licensure per passing of the oral examination today, pending any outstanding licensure requirements that are applicable. Ball made a motion to approve applicant #756 for licensure, pending any outstanding licensure requirements to complete. Roegiers seconded the motion. MOTION PASSED by unanimous voice vote.

Vote on RFP: There was no need for a vote on the RFP.

FY26 Executive Secretary Contract: Stanage made a motion to approve the Executive Secretary Contract with Professional Licensing, LLC with the same contract amount as FY25. Ball seconded the motion. MOTION PASSED by unanimous voice vote.

Adjourn: Stanage made a motion to adjourn at 11:07 a.m. CDT. Dosch seconded the motion. MOTION PASSED by unanimous voice vote.

Respectfully submitted,

Rosalie Ball, Ph.D.
Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. 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.

BOARD OF PSYCHOLOGY EXAMINERS
 REVENUE SUMMARY
 FOR MONTH ENDING 06/30/25

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	4920045			0892000	654		2025	12	\$ 4,565.71	\$ -
6503	4293000	0	0	0892000	654		2025	12	\$ 71,100.00	\$ 27,700.00
									\$ 75,665.71	\$ 27,700.00

BOARD OF PSYCHOLOGY EXAMINERS
EXPENDITURE SUMMARY REPORT
FOR MONTH ENDING 06/30/25

*Trisha McIlroy
Treasurer*

COMP	ACCOUNT	BGDT YEAR	GRANT YEAR	ACCOUNT DESCRIPTION	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	5101030	0	0	BOARD & COMM MBRS FEES	0892000	654		2025	12	\$ 3,154.00	\$ -
6503	5203260	0	0	AIR-COMM-OUT-OF-STATE	0892000	654		2025	12	\$ 1,436.42	\$ 1,007.47
6503	5203280	0	0	OTHER-PUBLIC-OUT-OF-STATE	0892000	654		2025	12	\$ 155.07	\$ 48.95
6503	5102010	0	0	OASI-EMPLOYERS SHARE	0892000	654		2025	12	\$ 241.24	\$ -
6503	5203300	0	0	LODGING/OUT-OF-STATE	0892000	654		2025	12	\$ 1,923.27	\$ 1,042.44
6503	5203350	0	0	NON-TAXABLE MEALS/OUT-ST	0892000	654		2025	12	\$ 269.00	\$ 167.00
6503	5204020	0	0	DUES & MEMBERSHIP FEES	0892000	654		2025	12	\$ 1,113.00	\$ -
6503	5203120	0	0	INCIDENTAL-S-TRAVEL-IN ST.	0892000	654		2025	12	\$ 108.00	\$ 60.00
6503	5204090	0	0	MANAGEMENT CONSULTANT	0892000	654		2025	12	\$ 47,263.16	\$ 306.78
6503	5204130	0	0	OTHER CONSULTING	0892000	654		2025	12	\$ 1,685.00	\$ 120.00
6503	5204160	0	0	WORKSHOP REGISTRATION FEE	0892000	654		2025	12	\$ 280.00	\$ 280.00
6503	5204201	0	0	BFM CENTRAL SERVICES	0892000	654		2025	12	\$ 1,960.02	\$ -
6503	5204204	0	0	RECORDS MGMT SERVICES	0892000	654		2025	12	\$ 319.20	\$ -
6503	5204207	0	0	HUMAN RESOURCES SERVICES	0892000	654		2025	12	\$ 404.08	\$ 200.02
6503	5204510	0	0	RENTS-OTHER	0892000	654		2025	12	\$ 2,400.00	\$ -
6503	5204590	0	0	INS PREMUMS & SURETY BDS	0892000	654		2025	12	\$ 1,400.07	\$ -
6503	5204740	0	0	BANK FEES AND CHARGES	0892000	654		2025	12	\$ 4.45	\$ 1.45
6503	5205320	0	0	PRINTING-COMMERCIAL	0892000	654		2025	12	\$ 77.48	\$ -
6503	5205328	0	0	PRINTING-COMMERCIAL	0892000	654		2025	12	\$ 183.09	\$ -
										\$ 64,376.55	\$ 3,234.11

	BUDGET	GRANT	CENTER	FUND	SUB	FISCAL	FISCAL	CASH
COMP ACCOUNT YEAR	YEAR		SRC	FUND	YEAR	MONTH	BALANCE	
6503	1140000	0892000	654		2025	12	\$ 148,008.38	\$ 148,008.38

36-27A-1. Definitions.

Terms used in this chapter, unless the context otherwise requires, mean:

- (1) "Board," the Board of Examiners of Psychologists established under this chapter;
- (2) "Program in psychology," a doctoral program, including a doctor of philosophy degree (Ph. D.), a doctor of psychology degree (Psy. D.) and a doctor of education degree (Ed. D.), for training in psychology that meets all of the following criteria:
 - (a) The program offers doctoral education and training in a regionally accredited institution of higher education in the United States, or, in the case of Canadian programs, the institution is recognized by the Association of Universities and Colleges of Canada as a member in good standing;
 - (b) The program, wherever it may be administratively housed, is identified as a psychology program as certified by the educational institution. The board may review the institutional catalogs and brochures to determine the psychological nature of the program;
 - (c) The program must be a recognizable, coherent organizational entity within the institution;
 - (d) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
 - (e) The program must be an integrated, organized sequence of study;
 - (f) There must be an identifiable psychology faculty;
 - (g) The program must have an identifiable body of students who are matriculated in that program for the purpose of receiving a degree;
 - (h) The program must include supervised practicum, field or laboratory training in psychology, and a supervised psychology internship pursuant to ARSD 20:60:08:01;
 - (i) The curriculum must encompass a minimum of three academic years of full time graduate study and completion of a psychology internship prior to awarding the doctoral degree. At least two of the three academic training years must be with the institution from which the doctoral degree is granted, and at least one year of which must be in full time residence at that same institution. In addition to instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the four following substantive areas. This may be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in these four substantive content areas:
 - (i) Biological aspects of behavior: physiological psychology, comparative psychology, neuro-psychology, psychopharmacology, psychophysics;
 - (ii) Cognitive-affective aspects of behavior: learning, thinking, motivation, emotion;
 - (iii) Social aspects of behavior: social psychology, community psychology, organizational and systems theory, minority group studies;
 - (iv) Individual differences: personality theory, human development, psychopathology, cultural diversity.

In addition to these criteria, the programs shall include course requirements in specialty areas of psychology.

- (3) "Psychological procedures," include but are not restricted to the application of principles, methods or procedures of understanding, predicting or influencing behavior, such as the principles pertaining to learning, conditioning, perception, motivation, thinking, emotions or interpersonal relationships; the methods or procedures of verbal interaction, interviewing, counseling, behavior modification, environmental manipulation, group process, psychotherapy, biofeedback or hypnosis; and the methods or procedures of administering or interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions or motivation;
- (4) "Psychologist," a person licensed under this chapter in the practice of psychology who holds himself or herself out to the public by any title or description of services which uses the words psychological, psychology, psychologist, psychometrist, or any derivations thereof;
- (5) "The practice of psychology," the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of

personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; individual, marital, family, or group counseling; psychotherapy and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorders or disabilities, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The practice of psychology is the rendering of psychological services to individuals, families, groups, and the public and is without regard to whether payment is received for services rendered.

Source: SL 1976, ch 235, § 1; SDCL Supp, § 36-27-1; SL 1981, ch 281, § 1; SL 1995, ch 225, §§ 1, 2; SL 2008, ch 197, § 1.

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 shall be comprised of five state's attorneys appointed by the attorney general. Each commissioner shall serve at the pleasure of the attorney general. A chair of the commission shall be chosen annually from the membership of the commission by a majority of its members.

1-25-12. DEFINITIONS. Terms used in this chapter mean:

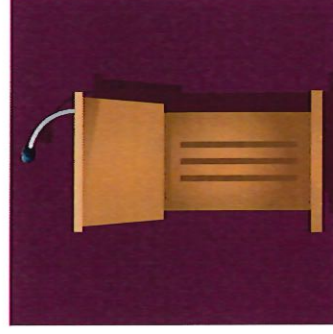
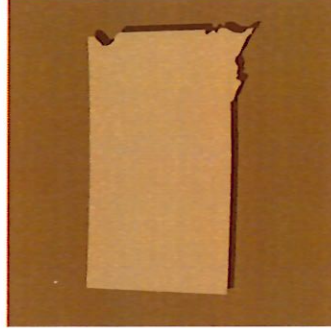
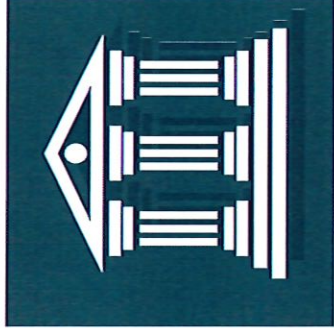
- (1) "Political subdivision," any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other local government entity that is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law;
- (2) "Public body," any political subdivision and the state;
- (3) "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;
- (4) "Teleconference," information exchanged by any audio, video, or electronic medium, including the internet;
- (5) "State," each board, commission,

department, or agency of the State of South Dakota. The term, state, does not include the Legislature.

1-27-116. 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 this 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.

1-27-117. 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.

1-27-118. 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.



Conducting the Public's Business in Public

A guide to South Dakota's
Open Meetings Laws
(Revised 2023)

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

Published by:
South Dakota NewsMedia Association
1125 32nd Ave. Brookings, SD 57006

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. 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(f). 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. 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). 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 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>.

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:

(f) 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;

(g) 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;

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

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

(j) 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

(k) 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.

9-34-19. EXECUTIVE SESSIONS (MUNICIPAL AND COUNTIES). Any documentary material or data compiled or received by a municipal corporation, county, or an economic development corporation receiving municipal or county funds, for the purpose of furnishing assistance to a business, to the extent that such material or data consists of trade secrets or commercial or financial information regarding the operation of such business, is not a public record. Any discussion or consideration of such trade secrets or commercial or financial information by a municipal corporation or county may be done in executive session closed to the public.

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.

PERTINENT S.D. OPEN MEETINGS STATUTES
(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS. The official meetings of the state and its political subdivisions are open to the public unless a specific law is cited by the state or the political subdivision 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 § 1-25-11 or 1-25-13 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 political subdivision may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum shall meet the posting requirements of § 1-25-11 or 1-25-13 and shall 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 official meetings held solely for the purpose of meeting in executive session, an inauguration, swearing in of newly elected officials, or presentation of an annual report to the governing body regardless of whether or not such activity takes place at the time and place usually reserved for a regularly scheduled meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meet 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.

1-25-11. 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.

1-25-13. 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.

1-25-15. 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.

1-25-16. 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.

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. 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. A public comment period is not required for meetings held solely for the purpose of executive session.

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(f) 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. Board members could be held personally liable for the results of an official vote

taken illegally during an executive session. For example, a contract approved only during an executive session could be found void and the board members could be required to repay any public funds spent under the contract.

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. It could even result in personal liability for members of the governing body involved, depending upon the action taken.

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 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(3) references teleconferences. The definition of a "teleconference" in SDCL 1-25-12(4) includes the exchange of information via the internet or any other electronic medium. The analysis of these two definitions leads to the conclusion that email discussions that include a quorum of a public body and which discuss the official business of that body could be considered "meetings" for purposes of the open meetings laws. Email participation in scheduling or similar activity would not, under this analysis, constitute a public meeting.

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

A: SDCL 1-25-1.4 requires or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-116 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 1-27-117 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 1-27-116 and 1-27-117 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 1-27-118.