



South Dakota Board of Physical Therapy

Mailing Address:
810 North Main Street, Suite 298
Spearfish, SD 57783

Phone: (605) 642-1600
E-Mail: office@sdlicensing.com

Draft-Video Conference **BOARD MEETING AGENDA**

TO: All Board Members

FROM: Brooke Tellinghuisen Geddes

MEETING DATE: August 11, 2026

MEETING TIME: 11:00AM MDT/ 12:00PM CDT

LOCATION: Video Conference

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

<https://teams.microsoft.com/meet/285542142669321?p=pqxhcixLEab6DObSmX>

Or by calling: 1 469-770-0416, Passcode: 317492298#

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. If you are having issues accessing the link, please contact the board office at 605-642-1600.

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.

Agenda Item Number:

1. Call to Order/Welcome
2. Roll Call
3. Approval of the Agenda
4. Public Comment
5. Approval of the Minutes from April 14, 2026
6. Financial Update
7. Annual Review of Open Meeting Laws (SDCL 1-25-13)
8. Cross-Profession Dataset-Update

9. Schedule Next Meeting(s)
10. Executive Session pursuant to SDCL 1-25-
 - a. Unlicensed practice, consult with legal counsel
 - b. Complaints/Investigations- if any
 - c. Re-Entry Applications-if any
11. Vote on Complaints/Investigations- if applicable
12. Ratification on Re-Entry Applications- if any
13. Any other Business
14. Adjourn

DRAFT

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OFFICIAL BOARD MINUTES FOR APRIL 14, 2026 VIDEO CONFERENCE

MEMBERS PRESENT: Patti Berg-Poppe, President
Leonard Suel, Vice-President
Rebeca Schmitz, Secretary
Matthew Weigel, Member
Brad Thuringer, Member
Linda Ahrendt, Lay Member
Janelle Toman, Lay Member

MEMBERS ABSENT: None.

OTHERS PRESENT: Brooke Tellinghuisen Geddes, Executive Director
Katie Funke, Executive Assistant
Howard Pallotta, SD Dept. of Health, General Counsel

CALL TO ORDER: Berg-Poppe called the meeting to order at 12:02 PM CDT.

ROLL CALL: Tellinghuisen Geddes called the roll. Berg-Poppe, yes; Suel, yes; Schmitz, yes; Thuringer, yes; Toman, yes; Ahrendt, yes; Weigel, yes. A quorum was present.

APPROVAL OF THE AGENDA: Schmitz made a motion to approve the agenda. Ahrendt seconded the motion. **MOTION PASSED** by unanimous voice vote.

PUBLIC COMMENT PERIOD: None.

APPROVAL OF THE MINUTES FROM JANUARY 6, 2026: Toman made a motion to approve the minutes from January 6, 2026. Weigel seconded the motion. **MOTION PASSED** by unanimous voice vote.

FINANCIAL UPDATE: Tellinghuisen-Geddes reported year-to-date financials as of February 28, 2026: revenue of \$200,640.00 expenses of \$113,786.63 and a cash balance of \$1,283,399.15.

MIDWEST HEALTH MANAGEMENT SERVICES- HEALTH PROFESSIONALS ASSISTANCE

PROGRAM (HPAP): Tellinghuisen Geddes explained that following a legal review of the agreement between the Board and MHMS, legal counsel determined it was unnecessary to enter into an agreement and that if the Board wishes to utilize their services, they may make a resolution to utilize Midwest Health Management Services as their Health Professionals Assistance Program should a licensee wish to voluntarily join or in conjunction with an informal disposition. Following discussion, Toman made a motion to utilize Midwest Health Management Services as their HPAP provider, if needed. Ahrendt seconded the motion. **MOTION PASSED** by unanimous voice vote.

CROSS PROFESSION DATA COLLECTION DISCUSSION: The board continued discussions from the last meeting regarding the cross-profession data collected on renewal applications during the recent renewal period. Berg-Poppe mentioned that the board office did reach out to the Department of Labor who indicated that they have no need for the data, at this time. Berg Poppe provided an update on how other states analyze and disseminate the data they have collected and the board was provided a copy of that information. Berg-Poppe reported that USD's PT Department would be willing to analyze the data at no cost and that APTA-SD was willing to disseminate the analyzed data. Suel questioned the necessity collecting the data in the future, depending on the value it provides. The Board agreed they should revisit the topic before the next big renewal period, in the fall of 2027 to reassess the value of the survey and data collection. Following discussion, Schmitz recommended the board provide the de-identified data to USD's PT Department to analyze and report to the board when assembled. It was also recommended that SD-APTA disseminate the analyzed data. Suel made a motion to accept the recommendation from Schmitz. Weigel seconded the motion. **MOTION PASSED** by unanimous voice vote.

FSBPT VOTING DELEGATES: Tellinghuisen Geddes informed the board that it was time to select the delegates for the Leadership Issues Forum in July and the Annual Education Meeting in October, if anyone can attend. Following discussion, Weigel made a motion to send Schmitz and Suel to the Education Meeting in October as the voting and alternate delegates. Toman seconded the motion. **MOTION PASSED** by unanimous voice vote. Toman made a motion to send one board member to the LIF meeting in July, if anyone becomes available. Ahrendt seconded the motion. **MOTION PASSED** by unanimous voice vote.

LEGISLATIVE UPDATES-IF ANY: Berg-Poppe reported that the bill to revise the scope of practice for occupational therapy was withdrawn. It was reported that APTA-SD is working closely with the OT Association for future changes. Suel reported the passage of HB 1104, which was an act to revise the application requirements for special license plates and parking permits for individuals with disabilities. Tellinghuisen Geddes reported that there were a number of bills that will update open meeting requirements the rulemaking process.

HEALTHY PRACTICE RESOURCE TOOL: The board discussed FSBPT's Healthy Practice Resource Tool. Following discussion, Suel made a motion to approve the tool as acceptable category 2 continuing education courses, with a limitation of 2 hours per renewal cycle. Thuringer seconded the motion. **MOTION PASSED** by unanimous voice vote.

ELECTION OF OFFICERS: The board discussed the current slate of officers. Berg-Poppe advised she would be willing to step down from the President position to allow others to serve in that role. Suel thanked Berg-Poppe for her service as President thus far and recognized her hard work and commitment to the Board, crediting much of the Board's success to the leadership and hard work Berg-Poppe has provided. Suel

motioned he would be willing to step into that role. Following discussion, Toman made a motion to elect Suel as President, Berg-Poppe as Vice-President and Schmitz as the Secretary. Weigel seconded the motion. **MOTION PASSED** by unanimous voice vote.

SCHEDULE NEXT MEETING(S): The next meeting is scheduled for August 11, 2026, at 11AM MDT/12PM CDT via Microsoft Teams. The following meeting is scheduled for November 17, 2026, at 11AM MST/12PM MST via Microsoft Teams.

EXECUTIVE SESSION PURSUANT TO SDCL 1-25-2: The Board did not have a need to enter executive session.

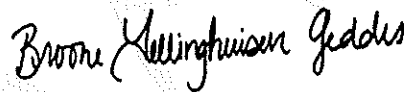
COMPLAINTS/INVESTIGATIONS: Tellinghuisen Geddes reported one pending complaint.

RATIFICATION ON RE-ENTRY APPLICATIONS: Schmitz made a motion to ratify application the following re-entry applications. Weigel seconded the motion. **MOTION PASSED** by unanimous voice vote.

Application #479: Complete 45 hours of continuing education and complete the PEAT practice exam through FSBPT with a score of at least 600 in each section.

ANY OTHER BUSINESS: None.

Weigel made a motion to adjourn at 1:07 PM CDT. Ahrendt seconded the motion. **MOTION PASSED** by unanimous voice vote.



Respectfully submitted,
Brooke Tellinghuisen Geddes
Executive Director

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.

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2026

AGENCY	BUDGET UNIT	09	HEALTH	BOARD OF PHYSICAL THERAPY - INFO	CURRENT MONTH	YEAR-TO-DATE	
CENTER	COMP	ACCT	DESCRIPTION				
COMPANY NO 6503							
COMPANY NAME PROFESSIONAL & LICENSING BOARDS							
092140066701	6503	4293881	PT APPLICATION		720.00	11,640.00	
092140066701	6503	4293882	PTA APPLICATION		600.00	3,240.00	
092140066701	6503	4293883	PT RENEWAL		120.00	178,440.00	
092140066701	6503	4293884	PTA RENEWAL		.00	3,120.00	
092140066701	6503	4293886	COMPACT CHECKS		2,760.00	23,040.00	
ACCT: 4293			BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		4,200.00	219,480.00	*
ACCT: 42			LICENSES, PERMITS & FEES		4,200.00	219,480.00	**
CNTR: 092140066701					4,200.00	219,480.00	***
CNTR: 092140066					4,200.00	219,480.00	****
CNTR: 0921400					4,200.00	219,480.00	*****
COMP: 6503					4,200.00	219,480.00	*****
B UNIT: 09214					4,200.00	219,480.00	*****
AGENCY: 09					36,409,177.22	164,232,598.11	*****

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2026

PAGE

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AGENCY	09	HEALTH					
BUDGET UNIT	09214	BOARD OF PHYSICAL THERAPY - INFO					
CENTER-5	09214	BOARD OF PHYSICAL THERAPY - INFO					
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE		
COMPANY NO	6503		PROFESSIONAL & LICENSING BOARDS				
COMPANY NAME							
092140066701	6503	510103000000000000	BOARD & COMM MERS FEES	.00	4,482.00		
ACCT: 5101			EMPLOYEE SALARIES	.00	4,482.00	*	
092140066701	6503	510201000000000000	OASI-EMPLOYER'S SHARE	.00	342.83		
ACCT: 5102			EMPLOYEE BENEFITS	.00	342.83	*	
ACCT: 51			PERSONAL SERVICES	.00	4,824.83	**	
092140066701	6503	520402000000000000	DUES & MEMBERSHIP FEES	.00	1,832.00		
092140066701	6503	520403000000000000	COMPUTER CONSULTANT	700.00	8,994.00		
092140066701	6503	520409000000000000	MANAGEMENT CONSULTANT	397.94	129,867.77		
092140066701	6503	520420000000000000	CENTRAL SERVICES	.00	1,913.73		
092140066701	6503	520420700000000000	HUMAN RESOURCES SERVICES	229.30	829.36		
092140066701	6503	520458000000000000	TRUCK-DRAYAGE & FREIGHT	.00	75.58		
092140066701	6503	520496000000000000	OTHER CONTRACTUAL SERVICE	82.54	3,539.94		
ACCT: 5204			CONTRACTUAL SERVICES	1,409.78	147,052.38	*	
092140066701	6503	520531000000000000	PRINTING-STATE	.00	185.55		
092140066701	6503	520535000000000000	POSTAGE	.00	10.45		
ACCT: 5205			SUPPLIES & MATERIALS	1,409.78	196.00	*	
ACCT: 52			OPERATING EXPENSES		147,248.38	**	
COMP: 6503			PROFESSIONAL & LICENSING BOARDS	1,409.78	152,073.21	***	
CENTER: 092140066701				1,409.78	152,073.21	****	
B UNIT: 09214				1,409.78	152,073.21	*****	
AGENCY: 09				15,844,981.72	160,524,812.56	*****	

AGENCY: 09 HEALTH
BUDGET UNIT: 09210 BOARD OF PODIATRY EXAMINERS - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100061821	1140000	48,742.31	DR	BOARD OF PODIATRY EXAMINERS
COMPANY/SOURCE TOTAL 6503 618			48,742.31	DR *	
6503	092100066701	1140000	1,263,952.57	DR	PHYSICAL THERAPY BOARD
COMPANY/SOURCE TOTAL 6503 667			1,263,952.57	DR *	
COMP/BUDG UNIT TOTAL 6503 09210			1,312,694.88	DR **	
BUDGET UNIT TOTAL 09210			1,312,694.88	DR ***	

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

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

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

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

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

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

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

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

1-25-13. ANNUAL REVIEW OF OPEN MEETING LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-11 or 1-25-13 must annually review the following, during an official meeting of the agency or subdivision:

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

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

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

1-27-116. MEETING PACKETS AND MATERIALS.

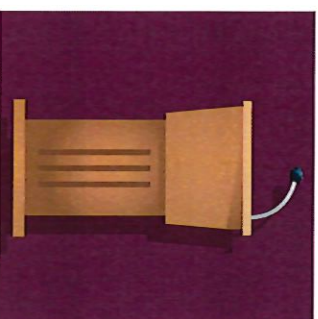
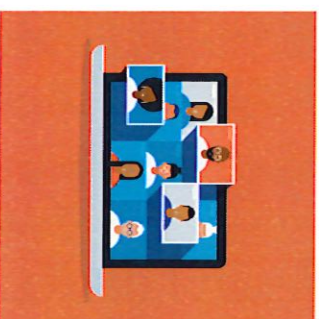
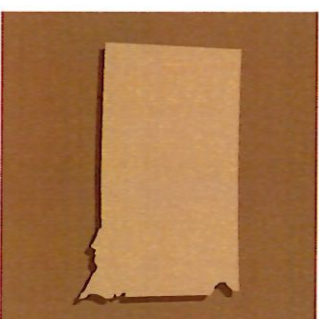
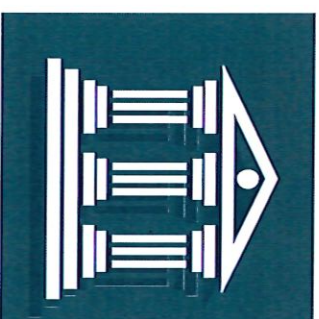
If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all 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 the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-117. 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 2025)

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

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-15, 1-25-12(5). In addition, for teleconferences where

less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-16. 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 1-25-11 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-13) 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 1-25-13 varies slightly from SDCL 1-25-11 and requires the State and its agencies, boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

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

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

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

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

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

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

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

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

(b) Emergency management or response;

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

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

(e) Guard schedules;

(f) Lock combinations;

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

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

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

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

1-25-6. DUTY OF STATES' 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 STATES' ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

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

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

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

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

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigation 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 investigation 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,

PERTINENT S.D. OPEN MEETINGS STATUTES

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

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

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-11 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 public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-11 or 1-25-13 and must contain, at a minimum, the date, time, and location of the event.

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

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

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

A violation of this section is a Class 2 misdemeanor.

1-25-11. 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. 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.

Q: WHO ARE LOCAL NEWS MEDIA?

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

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

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

Q: CAN PUBLIC MEETINGS BE RECORDED?

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

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

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

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A: SDCL 1-25-14 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-117 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 any audio and visual recording must be 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(f). 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 1-27-18.

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

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