



## South Dakota Board of Examiners for Speech-Language Pathology

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

Phone: (605) 642-1600  
E-Mail: [office@sdlicensing.com](mailto:office@sdlicensing.com)  
Home Page: [speechpath.sd.gov](http://speechpath.sd.gov)

### **Draft-Video Conference** **BOARD MEETING AGENDA**

TO: All Board Members

FROM: Brooke Tellinghuisen Geddes, Executive Secretary

MEETING DATE: November 7, 2025

LOCATION: Video Conference

MEETING TIME: 8:30AM MST / 9:30AM CST

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

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NDBiNzY3NmUtNzI1Yy00MzczLTk4NGItNzRmMzA1YmYzZDIw%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](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDBiNzY3NmUtNzI1Yy00MzczLTk4NGItNzRmMzA1YmYzZDIw%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: 252494095#

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](mailto:office@sdlicensing.com).

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

#### **Agenda Item Number**

1. Call to Order- Williams
2. Roll Call
3. Corrections or Additions to the Agenda

4. Approval of the Agenda
5. Public Comment
6. Approval of the Minutes from May 9, 2025
7. Financial Update
8. Renewal Update
9. CEU Transcript Discussion- Future Renewal Periods
10. ASHA Notice- Provisional Licenses
11. Annual Review of Open Meeting Laws (SDCL 1-25-13)
12. Schedule Next Meeting
13. Any other business
14. Executive Session pursuant to SDCL 1-25-2
  - a. Complaints- if any
15. Adjourn



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### DRAFT BOARD MINUTES FOR MAY 9, 2025 Video Conference-Microsoft Teams

**MEMBERS PRESENT:** Mandy Williams, President  
Julie Holiday, Vice-President  
Tiffany Trask, Member  
Nancy Suelflow, Member (joined at 9:33 a.m. CDT)  
Audra Nelson-Bailey, Lay Member

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Brooke Tellinghuisen Geddes, Executive Secretary  
Katie Funke, Executive Assistant  
Megan Borchert, General Counsel, Attorney General's Office  
Taylor Erlenbusch, Public Member  
Jennifer Schultz, Mitchell Technical College

**CALL TO ORDER/WELCOME AND INTRODUCTIONS:** President Williams called the meeting to order at 9:31 AM CDT.

**ROLL CALL:** Williams requested Tellinghuisen Geddes to call the roll. Williams, yes; Trask, yes; Holiday, yes; Suelflow, absent; Nelson-Bailey, yes. A quorum was present.

**CORRECTIONS OR ADDITIONS TO THE AGENDA:** None

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

**PUBLIC TESTIMONY/PUBLIC COMMENT PERIOD:** None.

**APPROVAL OF THE MINUTES FROM OCTOBER 11, 2024:** Nelson-Bailey made a motion to approve the minutes for the October 11, 2024. Trask seconded the motion. **MOTION PASSED** by unanimous voice vote.

**FINANCIAL UPDATE:** Tellinghuisen Geddes reported year-to-date figures as of March 31, 2025: revenue of \$54,526.92; expenses of \$44,300.61; and a cash balance of \$268,275.63.

**ELECTION OF OFFICERS:** Trask made a motion to keep the current slate of officers with Williams as President and Holiday as Vice President. Suelflow seconded the motion. **MOTION PASSED** by unanimous voice vote.

**LEGISLATIVE UPDATES:** Borchert mentioned SB 60, 61 and 62 which are a series of bills that address improper government conduct and crime. Additionally, SB 74 was discussed, which will require licensure boards to annually review open meeting laws of the state during an official meeting, which includes notating in the minutes that it was completed. She also mentioned HB 1059, which clarifies the meaning of teleconference for purposes of open meeting requirements and explained that it does not include communication for the sole purpose of scheduling a meeting or confirming availability for future meetings.

**ASLP INTERSTATE COMPACT UPDATE:** The board discussed the current state of the ASLP Interstate Compact. It was reported that the compact is not yet issuing privileges. Williams questioned costs associated with boards joining, which is still unknown at this point. The board discussed a possible future adoption of the compact and it was agreed that it may be reconsidered when more information related to costs is known.

**38<sup>th</sup> ANNUAL NCSB CONFERENCE, MOUNT PLEASANT, SC, SEPTEMBER 18-20, 2025:** Tellinghuisen Geddes explained that there is an upcoming conference for the National Council of State Boards of Examiners, which is the organization consisting of licensure boards throughout the US that license and regulate the practice of speech-language pathology and audiology. The board has sent board members and/or staff in the past to this event. Following discussion, Holiday made a motion to fund one board member to attend this conference, if available. Suelflow seconded the motion. **MOTION PASSED** by unanimous voice vote.

**SCHEDULE NEXT MEETING:** The next meeting is scheduled for November 7, 2025, at 9:30 a.m. CST via Microsoft Teams.

**EXECUTIVE SESSION PURSUANT TO SDCL 1-25-2:** Nelson-Bailey made a motion to enter executive session at 10:00 a.m. CDT. Suelflow seconded the motion. **MOTION PASSED** by unanimous voice vote. Williams declared an end to executive session at 10:05 a.m. CDT.

**COMPLAINTS/INVESTIGATIONS:** None.

**RFP #25-0921200-021:** Trask made a motion to accept the proposal from Professional Licensing, LLC for RFP #25-0921200-021 with the corresponding FY 26 contract. Holiday seconded the motion. **MOTION PASSED** by unanimous voice vote.

Suelflow made a motion to adjourn at 10:07 a.m. CDT. Nelson-Bailey seconded the motion. **MOTION PASSED** by unanimous voice vote.

Respectfully submitted,

*Brooke Tellinghuisen Geddes*

Brooke Tellinghuisen Geddes  
Executive 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.

DRAFT

STATE OF SOUTH DAKOTA  
REVENUE SUMMARY BY BUDGET UNIT  
FOR PERIOD ENDING: 06/30/2025

AGENCY 09 HEALTH  
BUDGET UNIT 09212 BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO

| CENTER                                       | COMP | ACCOUNT | DESCRIPTION                                   | CURRENT MONTH | YEAR-TO-DATE    |
|----------------------------------------------|------|---------|-----------------------------------------------|---------------|-----------------|
| COMPANY NO 6503                              |      |         |                                               |               |                 |
| COMPANY NAME PROFESSIONAL & LICENSING BOARDS |      |         |                                               |               |                 |
| 092120068622                                 | 6503 | 4293201 | INITIAL APPLICATION FEE                       | 1,300.00      | 10,550.00       |
| 092120068622                                 | 6503 | 4293202 | LICENSE FEE                                   | 1,700.00      | 15,000.00       |
| 092120068622                                 | 6503 | 4293203 | RENEWAL FEE                                   | .00           | 24,450.00       |
| ACCT: 4293                                   |      |         | BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL) | 3,000.00      | 50,000.00 *     |
| ACCT: 42                                     |      |         | LICENSES, PERMITS & FEES                      | 3,000.00      | 50,000.00 **    |
| 092120068622                                 | 6503 | 4920045 | NONOPERATING REVENUES                         | .00           | 10,476.92       |
| ACCT: 4920                                   |      |         | NONOPERATING REVENUE                          | .00           | 10,476.92 *     |
| ACCT: 49                                     |      |         | OTHER REVENUE                                 | .00           | 10,476.92 **    |
| CNTR: 092120068622                           |      |         |                                               | 3,000.00      | 60,476.92 ***   |
| CNTR: 092120068                              |      |         |                                               | 3,000.00      | 60,476.92 ****  |
| CNTR: 0921200                                |      |         |                                               | 3,000.00      | 60,476.92 ***** |
| COMP: 6503                                   |      |         |                                               | 3,000.00      | 60,476.92 ***** |
| B UNIT: 09212                                |      |         |                                               | 3,000.00      | 60,476.92 ***** |

STATE OF SOUTH DAKOTA  
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT  
FOR PERIOD ENDING: 06/30/2025

| AGENCY<br>BUDGET UNIT<br>CENTER-5 | 09<br>09212<br>09212            | HEALTH<br>BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO<br>BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO | COMP | ACCOUNT                   | DESCRIPTION | CURRENT MONTH | YEAR-TO-DATE |
|-----------------------------------|---------------------------------|------------------------------------------------------------------------------------------------|------|---------------------------|-------------|---------------|--------------|
| CENTER                            | COMP                            |                                                                                                |      |                           |             |               |              |
| COMPANY NO                        | 6503                            |                                                                                                |      |                           |             |               |              |
| COMPANY NAME                      | PROFESSIONAL & LICENSING BOARDS |                                                                                                |      |                           |             |               |              |
| 092120068622                      | 6503                            | 510103000000000000                                                                             |      | BOARD & COMM MBR'S FEES   | .00         | 1,660.00      |              |
| ACCT: 5101                        |                                 | EMPLOYEE SALARIES                                                                              |      |                           | .00         | 1,660.00      | *            |
| 092120068622                      | 6503                            | 510201000000000000                                                                             |      | OASI-EMPLOYER'S SHARE     | .00         | 127.00        |              |
| ACCT: 5102                        |                                 | EMPLOYEE BENEFITS                                                                              |      |                           | .00         | 127.00        | *            |
| ACCT: 51                          |                                 | PERSONAL SERVICES                                                                              |      |                           | .00         | 1,787.00      | **           |
| 092120068622                      | 6503                            | 520402000000000000                                                                             |      | DUES & MEMBERSHIP FEES    | .00         | 450.00        |              |
| 092120068622                      | 6503                            | 520405000000000000                                                                             |      | COMPUTER CONSULTANT       | 398.00      | 4,832.25      |              |
| 092120068622                      | 6503                            | 520408000000000000                                                                             |      | LEGAL CONSULTANT          | 184.00      | 839.50        |              |
| 092120068622                      | 6503                            | 520409000000000000                                                                             |      | MANAGEMENT CONSULTANT     | .00         | 43,917.00     |              |
| 092120068622                      | 6503                            | 520420000000000000                                                                             |      | CENTRAL SERVICES          | .00         | 2,140.67      |              |
| 092120068622                      | 6503                            | 520420700000000000                                                                             |      | HUMAN RESOURCES SERVICES  | 142.88      | 291.98        |              |
| 092120068622                      | 6503                            | 520451000000000000                                                                             |      | RENTS-OTHER               | .00         | 36.00         |              |
| 092120068622                      | 6503                            | 520496000000000000                                                                             |      | OTHER CONTRACTUAL SERVICE | 7.00        | 431.89        |              |
| ACCT: 5204                        |                                 | CONTRACTUAL SERVICES                                                                           |      |                           | 731.88      | 52,939.29     | *            |
| ACCT: 52                          |                                 | OPERATING EXPENSES                                                                             |      |                           | 731.88      | 52,939.29     | **           |
| COMP: 6503                        | PROFESSIONAL & LICENSING BOARDS |                                                                                                |      |                           | 731.88      | 54,726.29     | ***          |
| CENTER: 092120068622              |                                 |                                                                                                |      |                           | 731.88      | 54,726.29     | ****         |
| B UNIT: 09212                     |                                 |                                                                                                |      |                           | 731.88      | 54,726.29     | *****        |

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BAL409R1

STATE OF SOUTH DAKOTA  
CASH CENTER BALANCES  
AS OF: 06/30/2025

PAGE

135

AGENCY: 09 HEALTH  
BUDGET UNIT: 09212 BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO

| COMPANY                         | CENTER       | ACCOUNT | BALANCE    | DR/CR  | CENTER DESCRIPTION                       |
|---------------------------------|--------------|---------|------------|--------|------------------------------------------|
| 6503                            | 092100068622 | 1140000 | 263,799.95 | DR     | BD OF EXAMINERS FOR SPEECH-LANGUAGE PATH |
| COMPANY/SOURCE TOTAL 6503 686   |              |         | 263,799.95 | DR *   |                                          |
| COMP/BUDG UNIT TOTAL 6503 09212 |              |         | 263,799.95 | DR **  |                                          |
| BUDGET UNIT TOTAL 09212         |              |         | 263,799.95 | DR *** |                                          |

## Brooke Tellinghuisen Geddes

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**From:** Susan Adams <SAdams@asha.org>  
**Sent:** Friday, September 26, 2025 6:12 AM  
**Subject:** CMS/CF Guidance published

Good morning,

I wanted to share an update related to the CMS/CF issue. CMS has issued the long-awaited guidance reinforcing that provisional licensees, such as clinical fellows (CFs), are allowed to bill for services provided to Medicare beneficiaries under Part B. The guidance—nearly identical to the guidance CMS sent to ASHA in late July via email—states:

“[CMS will] defer to state licensure requirements to determine for SLPs in each state, allowing them to determine the SLPs that are most appropriate to provide speech-language pathology services to individuals/patients, including Medicare beneficiaries... This means that to the extent that an SLP complies with the applicable state process for licensure, certification, or registration (if the state has one) necessary to practice as an SLP, which may include provisional or temporary licensure as such individual completes required supervised experience, such individual complies with the applicable licensure requirements found at section 1861(l)(a)(4)(A) of the Social Security Act, 42 CFR 410.62(a), 42 CFR 484.115(n), and Section 230.3 of Chapter 15 of the Medicare Benefit Policy Manual.”

Of note, CMS:

1. **Corrects** a reference to the Claims Processing Manual made in the July email to the Benefit Policy Manual;
2. **Notes** it has issued guidance to Medicare Administrative Contractors; and
3. **Reinforces** the ability of CFs to bill for Part B services by stating: “CMS is clarifying that the state-licensed SLP may include provisional or temporary licensure as such individual completes required supervised experience and these SLPs may enroll as an SLP in Private Practice (SLPPP) and work for providers furnishing outpatient Part B speech-language pathology services, consistent with state requirements.”

Thank you for your patience as ASHA advocated for this clarification. Please feel free to reach out to me if you have any questions.

Best,

~Susan

Susan Adams, Esq., CAE  
Pronouns: she/her/hers  
Director, State Legislative & Regulatory Affairs  
American Speech-Language-Hearing Association  
Direct Line: 301-296-5665

Ex-officio and Legislative Liaison  
ASLP Interstate Compact Commission

*“This information is based on the facts you provided to ASHA staff. ASHA has not verified the information you provided and is not responsible for the accuracy or completeness of this information. Information provided by ASHA does not supersede the clinical, legal or financial judgement of the practitioner, nor does it dictate a payer’s*

## Brooke Tellinghuisen Geddes

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**From:** Susan Adams <SAdams@asha.org>  
**Sent:** Tuesday, July 29, 2025 10:13 AM  
**Cc:** Doanne Ward-Williams  
**Subject:** CMS Update

**Importance:** High

We're pleased to share important news from the Centers for Medicare & Medicaid Services (CMS). As of July 28, 2025, CMS has confirmed that it is **reversing its previous guidance** regarding the qualifications of provisional licensees, including clinical fellows (CFs), to now align with state licensure requirements. This allows individuals holding provisional licenses to provide services to Medicare beneficiaries—provided they meet their respective state's licensure requirements. No action is needed by state licensing authorities.

See Advocacy News: [CMS Reverses Its Interpretation of a Qualified SLP: Clinical Fellows Cleared to Bill Medicare](#)

Please feel free to reach out with any questions.

Best,

~Susan

Susan Adams, Esq., CAE  
Pronouns: she/her

Director, State Legislative & Regulatory Affairs  
American Speech-Language-Hearing Association  
Direct Line: [301-296-5665](tel:301-296-5665)

Ex-officio and Legislative Liaison  
ASLP-IC Commission, Executive Committee

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**From:** Susan Adams  
**Sent:** Tuesday, July 1, 2025 4:40 PM  
**Subject:** Town Hall Follow Up  
**Importance:** High

Thank you for joining our State Licensing Agency CMS town hall on June 25! We really appreciate your participation. As a follow-up, we're sharing some resources and next steps.

**The Issue:** CMS no longer recognizes provisionally licensed SLPs as qualified providers for Medicare Part B, without appropriate supervision. This change was finalized in 2015; however, the regulatory guidance ASHA and others use to guide our compliance recommendations were not updated until 2025. The 2009 guidance stated that an individual could be *in the process* of completing the supervised professional experience and some Medicare contractors were credentialing these practitioners if they held a provisional license, NPI number and completed the credentialing application.

**What is ASHA doing:** ASHA recognizes that CMS' interpretation of licensure has significant implications for provisionally licensed SLPs and **we are actively advocating for this policy to be reversed**. CMS has recognized that this has created massive challenges. ASHA, and its partners, are seeking a meeting with CMS to work on a resolution.

In the meantime, ASHA has launched a dedicated webpage with detailed and current information about this issue. Much of the information discussed at the town hall can be found here. We are committed to updating it as soon new information becomes available. ASHA's petition to CMS has reached 20,000 signatures and will be sent to CMS. We are also working with our state associations on a sign on letter to CMS.

We'd love your assistance too. If your agency or your Attorney General's office has made a determination that provisionally licensed SLPs are considered full SLPs and are qualified providers in light of this issue, please share that information with ASHA. It would be helpful for our advocacy efforts with CMS.

We will continue to update you with breaking news, and you can look forward to ASHA's newsletter, the Dispatch, in early September. Please reach out if you have any questions or concerns and would like to discuss further.

Best,

~Susan

Susan Adams, Esq., CAE  
Pronouns: she/her

Director, State Legislative & Regulatory Affairs  
American Speech-Language-Hearing Association  
Direct Line: 301-296-5665

Ex-officio and Legislative Liaison

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## American Speech-Language-Hearing Association

Making effective communication, a human right, accessible and achievable for all.

Search



# CMS Reverses Its Interpretation of a Qualified SLP: Clinical Fellows Cleared to Bill Medicare

July 29, 2025

Following extensive advocacy by ASHA, its members, and key stakeholder groups, the Centers for Medicare & Medicaid Services (CMS) has reversed its previous interpretation of the term “**licensed**” —a change that excluded provisional licensees, including clinical fellows (CFs), from being recognized as qualified Medicare providers.

In direct correspondence with ASHA, CMS clarified that its **updated interpretation aligns with state licensing requirements and allows individuals holding provisional or temporary licenses, such as CFs, to provide services to Medicare beneficiaries**—provided they meet their respective state’s licensure requirements.

## CMS’ Message to ASHA:

“After further review of our prior statement about “provisional” licenses for clinical fellows as well as the CY 2015 Home Health final rule (79 FR 66107), for Part B outpatient services furnished by speech-language pathologists, we now believe that deferring to the state licensure requirements for SLPs in each state would allow them to determine the SLPs that are most appropriate to provide speech-language pathology services to individuals/patients, including Medicare beneficiaries. In other words, to the extent that an SLP complies with the applicable state process for licensure, certification, or registration (if the state has one) necessary to practice as an SLP, which may include provisional or temporary licensure as such individual completes requir

supervised experience, such individual complies with the applicable licensure requirements found at 1861(l)(a)(4)(A) of the Social Security Act and 42 CFR 410.62(a), 42 CFR 484.115(n) and Section 230.3 of Ch. 15 of the Medicare Claims Processing Manual.”

## Why This Matters

ASHA applauds this revision of CMS’ previous guidance, which:

- Ensures compliance with Section 1861(l)(a)(4) of the Social Security Act
- Preserves states’ ability to manage their professional licensing standards
- Recognizes the skills and qualifications of provisional licensees
- Most importantly, preserves access to care for Medicare beneficiaries.

## What This Means for Provisional Licensees and Supervisors

CFs, and others who have obtained a provisional license, can treat Medicare patients *without a specific level of supervision for payment purposes*. However, CF supervision requirements still apply for the purposes of obtaining the Certificate of Clinical Competence (CCC).

- **In facility settings**, these services will be billed through the facility’s National Provider Identifier (NPI).
- **In private practices**, CFs must obtain an individual NPI, complete the Medicare provider enrollment application, and bill services under their own NPI.

## Advocacy in Action

This change is a powerful example of advocacy success. Nearly **20,000 ASHA advocates** and **36 state associations** signed petitions joining ASHA in urging CMS to reconsider its previous interpretation. Additional support from trade and professional associations ensured CMS understood the broad implications for employers, SLPs, patients alike.

## A Word of Caution

Please note: Some private payers and state Medicaid programs do not recognize provisional licensure as meeting their personnel standards for billing purposes. ASHA members should always verify billing and supervision requirements with each payer individually.

## What’s Next?

ASHA is aware that **several Medicare Administrative Contractors (MACs) have denied** enrollment to CFs working in private practices because of the provisional nature of their license. ASHA has asked **CMS to issue formal guidance** to ensure this standard is consistently applied across all MACs.

Updates will be shared with members as they become available.

## Questions?

Please email [reimbursement@asha.org](mailto:reimbursement@asha.org).

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**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 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.

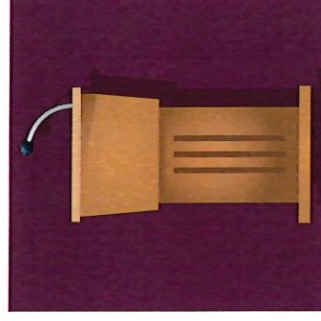
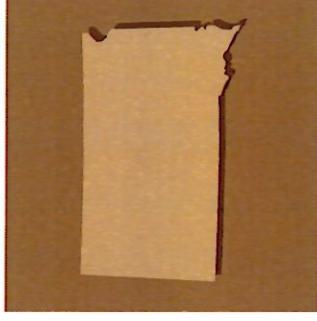
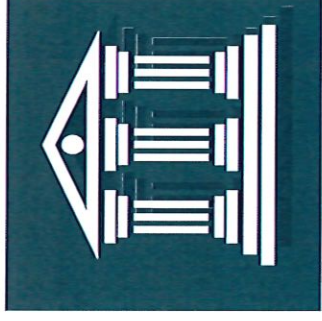
**1-27-118. WORKING GROUP REPORTS.** Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the 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 2023)

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

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

## Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

**A:** The open meetings laws apply to all public bodies "of the state and its political subdivisions." SDCL 1-25-1. 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(1). 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 1-25-11 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 1-25-11 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:

(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.

**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 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.

**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.

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 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 1-25-14 requires state boards, commissions, 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(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 1-27-118.