



South Dakota
Department of
Social Services

**South Dakota Board of
Social Work Examiners**
810 N. Main Street, Suite 298
Spearfish, SD 57783
Phone: 605.642.1600

Email: office@sdlicensing.com

Web: <https://dss.sd.gov/licensingboards/socialwork/social.aspx>

**DRAFT MEETING AGENDA
VIDEO CONFERENCE**

**South Dakota Board of Social Work Examiners
August 7, 2026-12:00PM CDT/11:00AM MDT**

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

<https://teams.microsoft.com/meet/235153452129080?p=KHZjY2N8Fy47EgdO7T>

Or by calling: 1-469-770-0416, Passcode: 795791993#

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

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

Member Listing:

1. Susan Kornder, CSW-PIP, President
2. Rachel Gangle, CSW-PIP, Secretary-Treasurer
3. Kelli Willis, CSW-PIP, Member
4. Jenna Brandt, SW, Member
5. Amber Zandstra, Lay Member
6. Kristen Mion, Lay Member
7. Vacant, Member
8. Amber Bruns, EdD, BCBA, LBA-Applied Behavior Analyst Committee
9. Lisa Stanley, DVM, Lay Member-Applied Behavior Analyst Committee
10. Kimberly Marso, Applied Behavior Analyst Committee

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

-
1. Call to Order/Welcome
 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 8, 2026
7. FY Financial Update
8. ABA Updates
9. Annual Review of Open Meeting Laws (SDCL 1-25-13)
10. SW Compact Updates
11. ASWB Annual Meeting- Salt Lake City, Utah, November 6-7, 2026
12. Schedule next meetings(s)
13. Any other business coming in between date of mailing and date of meeting
14. Executive Session Pursuant to SDCL 1-25-2
 - a. Complaints/Investigations
 - b. CSW-PIP Contract approvals
 - c. CSW-PIP Out-of-State Supervision Review
15. Complaints/Investigations Report/Vote (if necessary)
16. CSW-PIP Contract Approvals-Vote
17. CSW-PIP Out-of-State Supervision Vote
18. Adjourn



South Dakota
Department of
Social Services

South Dakota Board of
Social Work Examiners
810 N. Main Street, Suite 298
Spearfish, SD 57783
Phone: 605.642.1600

Email: office@sdlicensing.com

Web: <https://dss.sd.gov/licensingboards/socialwork/social.aspx>

OFFICIAL BOARD MINUTES

Video Conference

May 8, 2026-11:00AM MDT / 12:00 PM CDT

Members Present: Susan Kornder, President (joined at 12:17 PM CDT)
Kelli Willis, Member
Rachel Gangle, Member
Jenna Brandt, Member
Amber Zandstra, Lay Member
Kristen Mion, Lay Member

Members Absent: None

Others Present: Brooke Tellinghuisen-Geddes, Executive Secretary; Katie Funke, Executive Assistant; Amber Bruns, ABA Committee; Lisa Stanley, ABA Committee; Kimberly Marso, ABA Committee (joined at 12:08 PM CDT); Greg Tishkoff, Legal Counsel, DSS; Tracy Mercer, DSS; Renee Stellagher, Prosecuting Counsel, SD Office of the Attorney General; Susan Carr, NASW-SD

Call to Order/Welcome: Gangle called the meeting to order at 12:04 p.m. CDT.

Roll Call: Gangle requested Tellinghuisen-Geddes call the roll. Kornder, absent; Willis, yes; Gangle, yes; Zandstra, yes; Brandt, yes; Mion, yes. A quorum was present.

Corrections or additions to the agenda: None.

Approval of the agenda: Willis made a motion to approve the agenda. Brandt seconded the motion. **MOTION PASSED** by unanimous voice vote.

Public Comment: None.

Approval of the Minutes from Board meeting February 20, 2026: Willis made a motion to approve the minutes from February 20, 2026. Zandstra seconded the motion. **MOTION PASSED** by unanimous voice vote.

FY Financial Update: Tellinghuisen-Geddes reported fiscal year-to-date figures as of March 31, 2026: expenses of \$103,517.48; revenue of \$196,801.01 and a cash balance of \$611,177.78.

ABA Updates: None.

NASW-SD Chapter-Introduction: Susan Carr introduced herself as the newly appointed Executive Director of NASW for South Dakota, Wyoming and Nebraska. Carr expressed interest in working with the Board in the future and offered contact information should anyone need to reach her in the future.

Adoption of Findings of Fact and Conclusions of Law in the Hearing in the Matter of the Application of Vivian Steavenson for Licensure as a Certified Social Worker: The Board discussed the proposed Findings of Fact and Conclusions of Law in the hearing in the matter of the application of Vivian Steavenson for licensure as a CSW. Willis made a motion to adopt the Findings of Fact and Conclusions of Law in the Hearing in the Matter of Vivian Steavenson as presented. Brandt seconded the motion. Motion passed by **MOTION PASSED** by unanimous voice vote.

Kornder joined the meeting at 12:17 p.m. CDT.

2026 ASWB Education Meeting Report- Kornder attended the Education Meeting for ASWB in Rhode Island in April. It was reported that most of the topics were focused on setting standards for clinical supervision. Discussion was held regarding requiring certification to become an approved supervisor. Many states were not supportive of this requirement.

Schedule Next Meeting: The next meetings are scheduled for August 7, 2026, at 11:00 a.m. MDT/12:00 p.m. CDT and November 6, 2026, at 11:00 a.m. MST/12:00 p.m. CST.

Any other business coming in between date of mailing and date of meeting: Tellinghuisen Geddes updated the Board on the progress of applying for the ORI number.

Executive Session Pursuant to SDCL 1-25-2: Gangle made a motion to enter executive session at 12:24 p.m. CDT. Willis seconded the motion. **MOTION PASSED** by unanimous voice vote. All others exited the meeting. The Board exited executive session at 12:30 p.m. CST.

Complaints/Investigations: The Board office reported one pending complaint. Dismissed complaints by the investigative committee pursuant to SDCL 36-1C-4, were reported individually to Board members on the following dates:

Complaint #315, Dismissed April 15, 2026

Complaint#316, Dismissed April 22, 2026

Complaint #317, Dismissed April 22, 2026

CSW-PIP Supervision Contracts: Willis made a motion to approve the following contracts. Brandt seconded the motion. **MOTION PASSED** by unanimous voice vote.

Maddux, J.: Supervision with Shepherd beginning March 16, 2026;

Maddux, J.: Supervision with Wiegand beginning March 30, 2026;

Feathers, T.: Supervision with Johnson beginning March 25, 2026;

Lowery, T.: Supervision with Kaiser beginning March 9, 2026;

Marchant, T.: Supervision with Satterwhite beginning March 6, 2026;

Rainboth, A.: Supervision with Thompson beginning February 23, 2026;

Jackson, E.: Supervision with Schrupp beginning March 1, 2026;

Kroger, K.: Supervision with Bennetts beginning February 13, 2026;

Craig, E.: Supervision with Holbeck beginning February 12, 2026;

Pape Johnson, B.: Supervision with Holbeck beginning February 12, 2026;

DeHoogh-Kliwer, E.: Supervision with Holbeck beginning February 12, 2026;

Casavan, C.: Supervision with Arens-Beauchamp beginning February 10, 2026;

Grady-Winebrinner, A.: Supervision with Raveling beginning February 5, 2026;

Kuhn, G.: Supervision with Frybarger beginning February 5, 2026;

Scott, A.: Supervision with Bates beginning April 13, 2026;

Tate, M.: Supervision with O'Dell beginning April 10, 2026

CSW-PIP Out-of-State Supervision Vote: Willis made a motion to approve 3 months of out-of-state supervision for Boettcher towards the total requirement. Mion seconded the motion. **MOTION PASSED** by unanimous voice vote.

RFP Award/Executive Director Contract: Gangle made a motion to approve the RFP and contract with Professional Licensing, LLC as presented. Willis seconded the motion. **MOTION PASSED** by unanimous voice vote.

Mion made a motion to adjourn at 12:33 p.m. CDT. Willis seconded the motion. **MOTION PASSED** by unanimous voice vote.

Respectfully submitted,



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.

BOARD OF SOCIAL WORK EXAMINERS
 REVENUE SUMMARY
 FOR MONTH ENDING 06/30/26

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	4920045			0893000	719		2026	12	\$ 20,055.01	\$ -
6503	4293000	0	0	0893000	719		2026	12	\$ 220,556.00	\$ 24,190.00
									\$ 240,611.01	\$ 24,190.00

BOARD OF SOCIAL WORK EXAMINERS
EXPENDITURE SUMMARY REPORT
FOR MONTH ENDING 06/30/26

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	ACCOUNT DESCRIPTION	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	5101030	0	0	BOARD & COMM MBR'S FEES	0893000	719		2026	12	\$ 4,316.00	\$ -
6503	5102010	0	0	OASI-EMPLOYER'S SHARE	0893000	719		2026	12	\$ 330.21	\$ -
6503	5204020	0	0	DUES & MEMBERSHIP FEES	0893000	719		2026	12	\$ 1,011.75	\$ 178.07
6503	5204090	0	0	MANAGEMENT CONSULTANT	0893000	719		2026	12	\$ 103,003.77	\$ 384.78
6503	5204130	0	0	OTHER CONSULTING	0893000	719		2026	12	\$ 7,938.75	\$ 737.50
6503	5204201	0	0	BFM CENTRAL SERVICES	0893000	719		2026	12	\$ 4,406.68	\$ -
6503	5204204	0	0	RECORDS MGMT SERVICES	0893000	719		2026	12	\$ 347.50	\$ -
6503	5204207	0	0	HUMAN RESOURCES SERVICES	0893000	719		2026	12	\$ 800.00	\$ 163.78
6503	5204510	0	0	RENTS-OTHER	0893000	719		2026	12	\$ 3,600.00	\$ -
6503	5204590	0	0	INS PREMIUMS & SURETY BDS	0893000	719		2026	12	\$ 1,334.55	\$ -
6503	5204740	0	0	BANK FEES AND CHARGES	0893000	719		2026	12	\$ 18.08	\$ 0.79
6503	5205320	0	0	PRINTING-COMMERCIAL	0893000	719		2026	12	\$ 629.06	\$ 583.68
6503	5205328	0	0	PRINTING-COMMERCIAL	0893000	719		2026	12	\$ 491.45	\$ -
										\$ 128,227.80	\$ 2,048.60

178.07
384.78
737.50
163.78
0.79
583.68

2

BOARD OF SOCIAL WORK EXAMINERS
CASH CENTER BALANCE
FOR MONTH ENDING 06/30/26

COMP ACCOUNT		BDGT GRANT		FUND SRC		SUB FUND		FISCAL YEAR		FISCAL MONTH		CASH BALANCE	
6503	1140000	YEAR	YEAR	CENTER	0893000	719		2026		12		\$	\$
												630,277.46	630,277.46

Brooke Tellinghuisen Geddes

From: [REDACTED]
Sent: Thursday, May 14, 2026 9:58 AM
To: Brooke Tellinghuisen Geddes
Cc: Tishkoff, Greg
Subject: RE: Social Work ORI#

Follow Up Flag: Follow up
Flag Status: Flagged



External (kimberly.ripley@state.sd.us)



[Graymail](#) [Spam](#) [Phish](#) [More...](#)

Hello,

I am sorry to inform you, but the request was denied by the FBI as it does not meet the requirements of Pub. L. 92-544 to be able to have access to CHRI. Please see the below denial email with explanation for the denial.

Ms. Erickson

This is in reference to your email, dated March 25, 2026, to the FBI Office of the General Counsel (OGC) Criminal Justice Information Law Unit (CJILU), requesting a review of House Bill (HB) 1028 adding a new section to South Dakota Codified Laws (SDCL) Chapter 36-26 to determine if it meets the standards of Public Law (Pub. L.) 92-544 for access to FBI criminal history record information (CHRI).

The OGC CJILU has completed its review of HB 1028 adding a new section to SDCL Chapter 36-26 and determined that it does not meet the requirements of Pub. L. 92-544 for the following reason(s).

The following term is overly broad:

- 1) Multistate License

Please note that the definition for a multistate license is contained in SDCL § 36-26A-1, which is the Social Work Licensure Compact. The OGC CJILU does not approve Interstate Compacts under Public Law 92-544. As such, the license categories subject to a fingerprint-based criminal history background check must be defined or described outside the compact.

As a matter of information, the FBI, with the assistance of the United States Department of Justice, has determined the parameters of Pub. L. 92-544. The criteria are as follows:

- a. The statute must exist as a result of a legislative enactment;
- b. It must require the fingerprinting of applicants who are to be subjected to a national criminal history background check;
- c. It must, expressly ("submit to the FBI") or by implication ("submit for a national check"), authorize the use of FBI records for the screening of applicants;

- d. It must identify the specific category (ies) of licensees/employees falling within its purview, thereby avoiding overbreadth;
- e. It must not be against public policy; and
- f. It may not authorize receipt of the CHRI by a private entity.

Additionally, FBI policy requires that fingerprints be initially submitted to the state identification bureau (for a check of state records) and thereafter forwarded to the FBI for a national criminal history check.

Please note our review identified these concerns, but there may be additional disqualifying criteria listed above. The OGC CJILU recommends that the state identification bureau conduct a thorough review of each statute/bill to ensure it does not contain additional disqualifying criteria prior to submission to the OGC CJILU for further review. Should the state wish to provide additional information or clarifying material the statute may be resubmitted for a new review.

Sincerely,

Federal Bureau of Investigation
Office of the General Counsel
Criminal Justice Information Law Unit

Thanks.
Kim

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

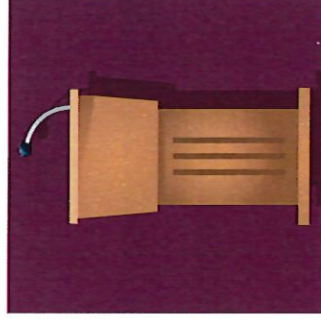
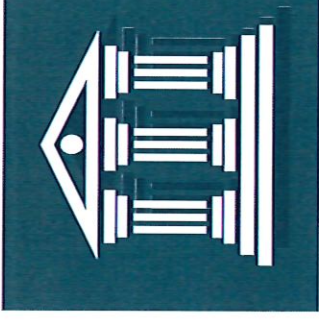
(2) Any other material pertaining to the open meeting laws of this state provided by the attorney general.

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

1-27-1.16. 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.

1-27-1.17. 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.

1-27-1.18. 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 1-25-1.5, 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 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its 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:

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

(2) Discussing the expulsion, suspension, discipline, assignment of or the eligibility of a 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 STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

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

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

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

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

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

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

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

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

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,

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

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

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(1) 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 1-27-116 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 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., 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.

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.