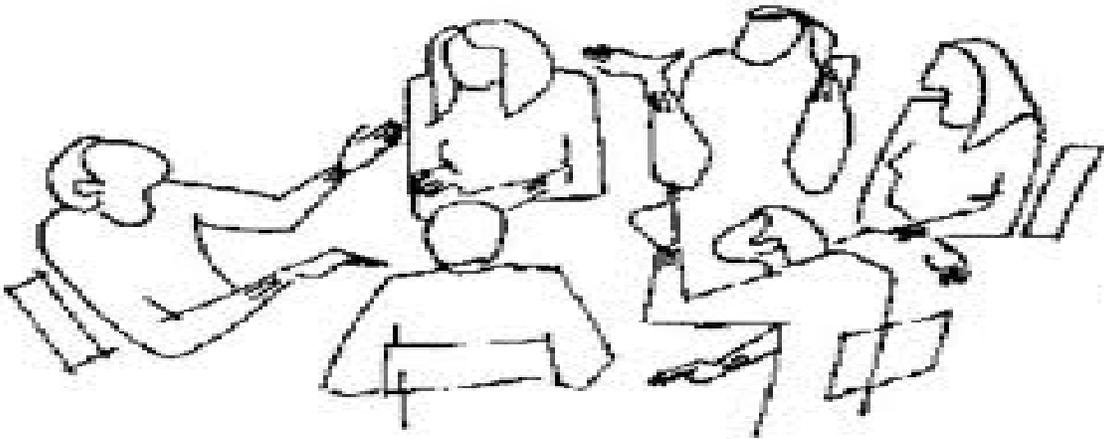


Arizona Open Meeting Law

Training on

- **Open Meeting Law**
- **Conflict of Interest**
- **Public Records &**
- **Code of Ethics**



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Updated January 17, 2017

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PART I. ARIZONA OPEN MEETING LAW

It is the policy of the State of Arizona that the public's business will be conducted in public. The State Legislature has adopted a law known as the "*Open Meeting Law*" applicable to public bodies and public officers. The following are typical questions asked about the Open Meeting Law.

1. *What is the Open Meeting Law?*

The policy of the State is that the public's business should be conducted in public. The Open Meeting Law contains the rules that public bodies have to follow to assure that this policy is carried out.

2. *Is my board/commission/committee a "public body" under the Open Meeting Law?*

Yes. Along with the governing body of the Town (Town Council), all boards, commissions and committees appointed by the Mayor or the Council are "public bodies" governed by the Open Meeting Law. According to the Attorney General's office, a public body also includes a committee appointed by the Manager if it is the intention that the committee will provide recommendations to the Council. On the other hand, a committee appointed by the Manager to provide advice only to the Manager would not be a "public body." If a Department Director appoints a committee to research and advise him or her, the committee is not a "public body."

3. *What is a meeting?*

Any time a quorum of the public body discusses, proposes or takes legal action related to municipal business, a meeting is being held. "Legal action" includes collective decisions, commitments or promises of the public body and is not necessarily a formal vote. A series of gatherings of less than a quorum can result in a meeting, especially if a consensus is reached. The gathering of the quorum may be held with one or more members participating by telephone or video conferencing. A meeting may also result from discussions had by e-mail if a quorum is involved and a "discussion" is taking place about municipal business. Great care should be taken in the use of e-mail to be sure you do not violate the Open Meeting Law.

4. *If the Town Council or my board/commission/committee is going to have meeting, what do we have to do?*

The law requires that public bodies of the municipality must file a statement with the Clerk or Mayor's Office stating where public notices of their meetings will be posted and on the internet if the municipality has an internet site. The law also requires that the public body "shall give such additional public notice as reasonable and practical as to all meetings." In addition, meetings may not be held without at least 24-hours' notice to the members of the public body and to the general public.

An agenda must include the date, time and place of the meeting. It must also include an agenda of matters to be discussed or decided at the meeting or information on how the public may obtain a copy of the agenda.

There is an exception for an “actual emergency,” in which case the meeting may be held without the required 24-hour notice so long as the notice is posted within 24-hours declaring that the emergency meeting has been held. In that case, the notice must include a discussion of the specific matter considered/decided at the meeting. There are very few circumstances that qualify as an “actual emergency” and unless a flood or fire is racing through the municipality that absolutely requires your board, commission or committee to hold a meeting related to that flood or fire, you probably do not have an emergency that would qualify under the Statute.

5. *Can we discuss matters not on the agenda?*

No, unless there is an “actual emergency” (see above).

6. *May there be a “communications from citizens” on the agenda?*

Yes, but the member of the public who is speaking is only allowed to address the public body on an issue within the jurisdiction of the public body. The public body may not discuss the matter raised by the member of the public but, at the conclusion of the open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter, or may ask that a matter be put on a future agenda.

7. *May the agenda include an item permitting individual members of the Council, board, commission, or committee to make a statement or report (without discussion) at the end of the meeting?*

Yes. The law does permit the public body to include on the agenda an item to “Report on Current Events” by the chair, board/commission/committee member, and Department Director (or other principal staff person in charge of the board/commission/committee). At that time, the individual may make a report to the public and public body. However, the public body may not discuss or take legal action on the matter unless the matter has also been listed on the agenda.

8. *Does the Council, board, commission, or committee have to keep minutes of the meetings?*

Yes. All public bodies must take minutes.

9. *What has to be included in minutes?*

For meetings other than executive sessions (see below), minutes must include:

- a. The date, time and place of the meeting.
- b. The members of the public body recorded as either present or absent.
- c. A general description of the matters discussed.
- d. An accurate description of all legal actions proposed, discussed or taken and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting materials to the public body and a reference to the legal action about which they made statements or presented material.

The minutes must be open to public inspection three working days after the meeting. If there is a recording, the recording can be made available and the written minutes can follow later.

10. *Do our minutes have to be posted on a website?*

Yes, for municipalities with a population of more than 2,500 persons and that have an internet site. A statement showing the legal actions taken by the public body must be posted within 3 working days following the meeting. Draft minutes meet this requirement. Approved minutes to city or town councils must be posted within 2 working days after approval.

11. *Can the Council, board, commission, or committee meet in private?*

Yes, if it is for one or more of the specific purposes listed in the statute for which public bodies may meet in private. Those purposes are:

- a. Discussion of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the public officer, appointee or employee. Generally, this only applies to the Town Council, as it is the only public body that has the authority to appoint, promote, demote, or take other employee actions. Other boards, commissions or committees do not consider such matters.
- b. Discussion of records exempt by law from public inspection.
- c. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
- d. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, pending or contemplated litigation or settlement discussions conducted in order to avoid or resolve litigation.

- e. Discussion with the public body's representatives regarding negotiations with employee organizations regarding salaries, salary schedules and compensation.
- f. Discussion for international or interstate negotiations or with members of a tribal council of an Indian reservation located within or adjacent to the municipality.
- g. Discussions with the public body's representatives regarding its position on the purchase, sale or lease of real property.

Most executive sessions of a board, commission, or committee (as opposed to the Town Council) will be for the purpose of receiving legal advice.

12. *If we have an executive session, do we have to keep minutes?*

Yes. However, minutes are kept confidential except from members of the public body that met in executive session and officers, appointees, or employees who are the subject of discussion if the executive session was held for personnel reasons.

13. *Can I use email to communicate with my fellow members?*

Yes, but with caution. Use of email can constitute a meeting when the email proposes legal acts or when there is an exchange of facts and/or opinions if it is foreseeable that the topic may come before the board for action. For example, the Attorney General's Office cautioned that even a single email—without any responses—could violate the Open Meeting Law if the email is sent to a quorum of the public body and proposes legal action. Moreover, if a majority of the board responds to an email, it can constitute action for an illegal meeting. Be careful in responding to all and of chain emails. Use of emails in this manner can constitute a meeting which has not been properly noticed.

14. *Can I express my opinion to the news media or discuss an issue with the public if I know other board members may read or hear my comments?*

Yes. The Open Meeting Law does not prohibit a member of a public body from voicing an opinion or discussing an issue with the public either at a venue other than a public meeting or through news or social media outlets so long as (1) the opinion or discussion is not principally directed at or directly given to another member of the public body, and (2) there is no concerted plan to engage in collective deliberation to take legal action. Additionally, the Attorney General's Office has released an opinion that a meeting does not occur when members of the public body merely hear or read a comment made by another member of the public body in the media.

15. *What happens if a Council, board, commission, or committee violates the Open Meeting Law?*

The first thing that happens is that any action you took in violation of the Open Meeting Law is null and void.

The second thing that happens is that the Attorney General or County Attorney's Office may investigate a complaint alleging a violation of the Open Meeting Law and conduct an investigation. The Attorney General or County Attorney has broad powers to inspect all documents, require any person to submit a report or make a statement and issue investigative demands for production of documents. If a public body or an officer refuses, the Attorney General or County Attorney may go to court to get an order for enforcement.

Upon a finding that a public officer has violated the Open Meeting Law, a court may impose a civil penalty not to exceed \$500 for each violation against the person who violates the article or knowingly aids, agrees to aid or attempts to aid another person in violating the Open Meeting Law. If the court determines that a public officer intended to deprive the public of information, a court may remove the public officer from the office and shall assess him with all costs and attorney fees awarded to plaintiff in pursuing the action.

The municipality may not expend public monies to retain legal counsel to provide legal services to the public body or an officer unless the public body takes legal action at a public meeting to approve the expenditure.

PART II. CONFLICT OF INTEREST

1. *How do I know if I, as a member of a public body, have a conflict of interest?*

The first question you have to ask is whether, in any matter that comes before your Council, board, commission or committee, you have a “pecuniary” interest in the outcome. A pecuniary interest is any matter where you stand to gain or lose something of value from the decision.

2. *If I determine I have a pecuniary interest in a decision, then what?*

You need to determine whether your interest is a “remote interest.” A remote interest is any of the following:

- a. The interest of a non-salaried officer of a non-profit corporation.
- b. The interest of a landlord or tenant of the contracting party.
- c. The interest of an attorney of a contracting party.
- d. The interest of a member of a non-profit cooperative marketing association.
- e. The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock options, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.
- f. The interest of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- g. The interest of a recipient of public services generally provided by the incorporated city or town, political subdivision or State department, commission, agencies, body or board of which who is a public officer or employee on the same terms and conditions as if he were not an officer or employee.
- h. The interest of a public school board member when the relative involved is not a dependent or a spouse.
- i. The interest of a public officer or employee or that of a relative of a public officer or employee unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative of any of the following:

1. Another political subdivision;
 2. A public agency of another political subdivision; or
 3. A public agency except if it is the same governmental entity.
- j. The interest of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of the trade, business, occupation or profession or class of persons.
- 3. *If I determine that my pecuniary interest does not fit into one of the above exceptions, then what?***

If your pecuniary interest does not fit one of the above exceptions, then you have a “substantial interest.” *If the interest fits into one of the above exceptions, you do not have a conflict of interest.*

- 4. *If I have a substantial interest in a decision or matter coming before my Council, board, commission, or committee, what should I do?***

You must not take part in any discussion or action involving that matter. You do not have to resign from the Council, board, commission, or committee. However, you must “make known” your substantial interest in the public records. The Clerk has a form for you to fill out that you will keep on file. You must disclose on that form the substantial interest that you have that resulted in the conflict of interest.

- 5. *What happens if I violate the conflict of interest laws?***

Any person affected by the decision of the public body may commence a civil suit in Superior Court for the purpose of enforcing the law. The Court may award reasonable attorneys’ fees to the prevailing party. Intentionally or knowingly violating the conflict of interest laws is a Class VI Felony. Recklessly or negligently violating the conflict of interest laws is a Class I Misdemeanor. A person found guilty might be required to forfeit his public office.

PART III. PUBLIC RECORDS

1. *What is a public record?*

The State Legislature has not defined the term “public record.” However, Arizona courts have articulated three alternative definitions:

- a. A record made by a public officer in pursuance of a duty, the immediate purpose of which is to disseminate information to the public or to serve as a memorial of official transactions for public reference.
- b. A record that is required by law to be kept, or necessary to be kept in the discharge of a duty imposed by law or directed by law to serve as a memorial and evidence of something written, said or done.
- c. Written records of transactions of a public officer in his office, which is a convenient and appropriate method of discharging his duties and is kept by him as such, whether required by express provisions of law or not.

2. *What is the general process for producing public records?*

Public records must be produced promptly after a request. The Custodian of records will review each request to determine if the records are exempt from disclosure or should be produced. Consultation with legal counsel may be necessary to determine whether certain documents are exempt from disclosure. If the records will be produced, it is important to remember that certain information must be redacted prior to production. See the Town Attorney for more information about redaction.

3. *Are email or other electronic messages public records?*

Mere possession of a document by a public officer or agency does not determine whether it is a public record. A document wholly personal in nature is not a public record. However, emails received or sent by you are public records if they relate to your duties as a member of a public body. *In general, you should assume your emails are public records, even if they are prepared on your personal computer.* Familiarize yourself with the Town’s procedures for the preservation and retention of public records when using Town issued electronic equipment and services.

4. *When might the Town deny a request to view a public record?*

Public inspection of governmental records may be denied when: (1) the record is made confidential by statute; or (2) strong countervailing considerations exist that outweigh the public policy favoring disclosure. Privacy interests and governmental/security interests must be considered. A party may appeal a denial to the Superior Court under A.R.S. § 39-121.02, et seq. The court may award attorney fees and other legal costs that are reasonably incurred in legal action if the person seeking inspection of the public records has “substantially prevailed” in the case.

PART IV. CODE OF ETHICS

1. *Why do we have a Code of Ethics?*

Chapter 35 of the Town Code includes a Code of Ethics, which was amended on April 9, 2013 in Ordinance No. 13-768. A copy of the Town Code of Ethics is attached as an exhibit to this handout for ease of reference. Ordinance No. 13-768 was enacted with the express purpose of establishing standards of conduct for Chino Valley's public officials in order to (1) promote respect for the rights, privileges, and opinions of a public officer's fellow officials, staff, and the public at large; (2) bring honor to the title and recognition to the weighty respect due to the role of a public official; and (3) maintain professional conduct between public officials and staff with respect to employee work assignments and obligations.

2. *How does the Town's Code of Ethics relate to State requirements governing the conduct of public officials?*

The requirements of the Code of Ethics are in addition to and are intended to compliment the requirements of State law governing the conduct of public officials.

3. *What are the responsibilities of public service?*

In general, public officials must maintain themselves to the highest standards of integrity and honesty. Public officials must exhibit respect for all members of the public and fellow colleagues. Public officials must also act to bring honor to the title and the weighty respect due to the role of a public official. In practice, this means (1) leading by example; (2) demonstrating civil and courteous conduct at all times; (3) seeking and speaking the truth; (4) respecting all people; and (5) accepting respectful dissent as a civic right.

With regards to the public, an example of treating constituents respectfully and accepting respectful dissent may include dividing the time fairly among potential speakers at a public meeting and listening to different points of view. Simply by keeping an open mind and actively listening to the concerns of a citizen you communicate to the community that Chino Valley values all of its residents. Similarly, when interacting with staff, the public official must maintain professional conduct with respect to the employee's work assignments and obligations and must refrain from directly influencing the professional management of the Town's administration by any means other than direct communication with the Town Manager.

Finally, in addition to the requirements in the Code of Ethics, public officials must also adhere to the open meeting and conflict of interest laws. Public officials must also protect confidential information as required or permitted by law. Questions about ethical requirements should be presented to the Town Attorney's office (in writing if time permits).

4. *What should I do if I suspect a violation of the ethics policy?*

Complaints shall be made, in writing, to the Mayor and/or the Vice Mayor, unless they are named in the complaint, in which case the written complaint may be given to the Town Attorney. Complaints will be addressed by the Council within sixty (60) days of receipt. Open Meeting Law Violations may be directly reported to the Attorney General's Office or County Attorney.

EXHIBIT 1

TOWN CODE OF ETHICS

TOWN CODE – CHAPTER 35: CODE OF ETHICS

(Last Updated by Ordinance No. 15-800, dated June 9, 2015)

CHAPTER 35: CODE OF ETHICS

Section

- 35.01 Generally
- 35.02 Responsibilities of public office
- 35.03 Conflict of interest
- 35.04 Conduct in public office

§ 35.01 GENERALLY.

(A) **ETHICS** is defined here as the rules or standards governing those persons functioning as representatives of the town. These rules and standards are based upon a set of values judged to be moral to the extent that they enhance society and an individual's relationship to others.

(B) A representative of the town is defined here as a public official, elected or appointed, salaried or unpaid, including the Mayor, Council members and any board or commission member.

(C) The purpose of this code is to establish ethical standards of conduct for these public officials acting in their official public capacity.

§ 35.02 RESPONSIBILITIES OF PUBLIC OFFICE.

(A) By oath of office each representative is responsible to uphold the Constitution of the United States, the Constitution of the State of Arizona and the ordinances and regulations of the town. The public official shall perform his obligations in a manner that is impartial and responsible to all people.

(B) The public official shall not use his position for personal or monetary gain.

(C) The public official shall not disclose confidential information concerning the property, government or affairs of the town without proper legal authorization.

§ 35.03 CONFLICT OF INTEREST.

(A) This code shall reinforce any existing affirmation regarding conflict of interest contained in the public official's oath of office. When acting in a public capacity, the public official shall abstain from participating in discussion and vote on any pending matter that would result in his or her financial or private gain.

(B) The public official shall not directly or indirectly solicit, accept or receive any gift, whether it

be money, services, loan, travel, entertainment, hospitality, promise or any other form that could be reasonably inferred to influence the performance of his or her official duties and actions or serve as a reward for any official action.

§ 35.04 CONDUCT IN PUBLIC OFFICE.

(A) The public official shall not discuss or divulge confidential information acquired by him or her in the course of his or her official duties nor shall he or she use this information for his or her own personal interest or aggrandizement.

(B) The public official shall respect the rights, privileges and opinions of his or her fellow officials, staff and the public at large. Council members shall exhibit respect for the public, other governmental units and agencies, and the professional and ethical conduct of the town manager and staff. Propriety dictates that the public official be sensitive to the possible confidential or personal nature of directives addressed to other individuals.

In bringing honor to the title and in recognition of the weighty respect due the role of Public Official, those elected to public office shall:

- (1) Lead by example.
- (2) Demonstrate civil and courteous conduct at all times.
- (3) Seek and speak the truth.
- (4) Respect all people.
- (5) Accept respectful dissent as a civic right.

(C) In his or her dealings with town employees, the public official shall maintain professional conduct with respect to the employee's work assignments and obligations, and shall refrain from directly influencing the professional management of the town's administration by any means other than direct communication with the Town Manager. The office of the public official shall in no situation be used to wrongfully obtain information or administrative outcomes either by intimidation or by deliberately violating the privacy of an employee's work station.

(D) All public officials SHALL COMPLY WITH this Code of Ethics.

§ 35.05 CODE OF ETHICS COMPLAINTS; FILING AND PROCEDURES

(A) Code of Ethics violations are Council matters and complaints shall only be made by members of the Town Council.

(B) Complaints alleging violations to this chapter shall be in writing and filed by the complainant with the Mayor and/or Vice Mayor, unless the Mayor and/or Vice Mayor file or are named in the complaint. In that event, the complaint shall be filed with the Town Attorney. Any and all documents in support of the complaint shall be attached to the complaint at the time it is filed.

(C) Complaints will be addressed by the Council within 60 days of receipt by the Mayor, Vice Mayor or Town Attorney in compliance with the procedures set forth in this section.

(D) The Mayor, Vice Mayor or Town Attorney who receive a complaint shall forward it and all attachments to the Town Clerk within three (3) business days of receipt and at least three (3) weeks prior to the complaint being placed on Council's agenda.

(E) At least two weeks prior to the Council's consideration of the complaint, the Town Clerk shall provide a copy of the complaint and all supporting documents to the respondent.

(F) Only one complaint alleging a violation of the Ethics Code shall be addressed at any one Council meeting.

(G) Only one person may be accused of a Code of Ethics violation per complaint.

(H) If the Mayor is either the complainant or the respondent, the Council's consideration of the ethics complaint shall be chaired by the Vice Mayor.

(I) Council's procedure for addressing the complaint during its meeting shall be as follows:

- (1) Introduction of item
- (2) Presentation by complainant (10 minutes maximum)
- (3) Presentation by respondent (10 minutes maximum)
- (4) Additional information by complainant (if any) (5 minutes maximum)
- (5) Additional information by respondent (if any) (5 minutes maximum)
- (6) Council discussion
- (7) Council decision

EXHIBIT 2

PUBLIC BODY EMAIL AND OTHER COMMUNICATIONS AND THE OPEN MEETING LAW

Public Body Email and Other Communications and the Open Meeting Law (“OML”)

Emails and other communications between members of a public body, including Town Council, Zoning Commission, or Town Committees, may lead to violations of the Open Meeting Law (“OML”). This is because a *meeting* can occur through serial communications between a quorum of public body members regarding any *business* of the Town, commission, or committee that is reasonably foreseeable to come before the Council, committee or commission, respectively.

A meeting includes discussing legal action, proposing legal action, taking legal action or deliberating with respect to such actions. *Legal action is* any collective decision, commitment, or promise by the public body which is made pursuant to the Arizona Constitution, scope of appointment of the members, or the Laws of this State, including those which authorize the formation of the Town and the Town's ability to take action.

To be clear, it is a violation for one public body member to communicate with a quorum (including the communicator or sender) of the public body if the communication proposes *legal action* on any matter that is before the public body or if it is *reasonably foreseeable* that the matter may become before the public body.

It is possible for one member of a public body to communicate with a quorum of the members of the public body without violating the OML, but meaningful discourse will likely violate the law. Simply forwarding facts such as a third-party article or a third-party's documentation with NO response is not a violation. If, however, the article to be sent is slanted for or against the matter, it would be better to provide it to a Staff member for inclusion in the Council, commission, or committee's meeting packet.

Communications with/between less than a quorum of the public body (including the sender) is not a violation of the OML, but caution is advised. In this event, the communicator should take action to ensure the communication or any response will not be passed on to members not included in the original communication. An email or a letter from a member to a quorum of other members should include a notice similar to the following: *“To ensure compliance with the Open Meeting Law, recipients of this message should not forward it or any response to other [council, commission or committee] members and you should not reply to this message.”*

Members of a public body are prohibited from using staff to circumvent the OML. However, staff members may use email to send out an article, report or other factual information to the public body members as long as there is no discussion among a quorum of the members on that information outside of a public meeting.

A request by a public body member to staff proposing that an item be placed on an agenda for discussion and/or action by the public body does not violate the OML, even if it is viewed by a quorum of the members. The merits of the item (and even the merits of placing it on the agenda) should, however, not be discussed by a quorum of members of the public body until the public meeting is held where it is discussed.

A few simple guidelines and hypotheticals which the Attorney General's Office provided in its Opinion No. I05-004 are provided below. This and other Attorney General Opinions regarding the OML are available online at <http://www.azag.gov/SGO>.

Hypotheticals on Email from the Arizona Attorney General's Office:

- a. E-mail discussions between less than a quorum of the members that are forwarded to a quorum by a board member or at the direction of a board member would violate the OML.
- b. If a staff member or a member of the public e-mails a quorum of members of the public body, and there are no further e-mails among board members, there is no OML violation.
- c. Board member A on a five-member board may not e-mail board members B and C on a particular subject within the scope of the board's responsibilities and include what other board members D and E have previously communicated to board member A. This e-mail would be part of a chain of improper serial communications between a quorum on a subject for potential legal action.
- d. A board member may e-mail staff and a quorum of the board proposing that a matter be placed on a future agenda. Proposing that the board have the opportunity to consider a subject at a future public meeting, without more, does not propose legal action, and, therefore, would not violate the OML.
- e. An e-mail from the superintendent of the school district to a quorum of the board members would not violate the OML. However, if board members reply to the superintendent, they must not send copies to enough other members to constitute a quorum. Similarly, the superintendent must not forward replies to the other board members.
- f. One board member on a three-member board may e-mail a unilateral communication to another board member concerning facts relating to board business, but board members may not respond to the e-mail because an exchange between two members would be a discussion by a quorum.
- g. A board member may copy other board members on an e-mailed response to a constituent inquiry without violating the OML because this unilateral communication would not constitute discussions, deliberations or taking legal action by a quorum of the board members. *Caution: If the board member provides his or her opinion on a matter that is or will come before the board in that communication with the constituent and copies one less than a quorum, it would violate the OML.*
- h. An e-mail request by a board member to staff for specific information does not violate the OML, even if the other board members are copied on the e-mail. The superintendent may reply to all without violating the OML as long as that response does not communicate opinions of other board members. However, if board members reply in a communication that includes a quorum, that would constitute a discussion or deliberation and therefore violate the OML.
- i. A board member may use e-mail to send an article, report or other factual information to the other board members or to the superintendent or staff member with a request to include this type of document in the board's agenda packet. The agenda packet may be distributed to board members via e-mail. Board members may not discuss the factual information with a quorum of the board through email.

These hypotheticals assume that the e-mails are not sent by board members or at a board member's direction with the purpose of circumventing the OML and that any unilateral communications do not propose legal action.

Public Body Communication Guidelines

Public Body Member Communications

Do not communicate orally or in writing with a quorum on any issue that may reasonably be expected to come before the public body.

To communicate facts or articles or other third-party information to all members of the public body, send the item(s) to staff and ask them to forward the items to the other members. But remember, you may not use staff to circumvent the OML.

View written communications as if they are oral communications and all parties receiving or transmitting them as if they are communicating in person and you will avoid violations.

Council-Staff and Staff-Council Communications

Public body members may request information from staff but, since Councilmembers are prohibited from giving orders directly to staff pursuant to Town Code § 31.02, in order to avoid a misperception or misunderstanding of the request by staff, a better practice is to request the information from the Town Manager, who will then direct the request to the appropriate staff member. Staff may be limited by Town policies or confidentiality regulations in what documentation it is able to provide. (See also **Exhibit F7**, Town Code – Code of Ethics and Communication with Staff)

Public-Council Communication

When the public communicates with a public body member, the member may copy other members with his/her response as long as it does not advocate for or against a matter that is already or may, in the future, come before the Council for consideration and/or action.

Email Notice

Council members (and other public body members) should add the following language to their emails: "To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the [City Council, Zoning Commission, or Committee]. Members may reply to this message, but should not send a copy of the reply to other members."

Email from Staff to public body members should contain the following: "To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the [City Council, Zoning Commission, or Committee]. Members may reply to this message, but should not send a copy of the reply to other members."

Executive Sessions

Public bodies are permitted by Arizona Open Meeting Law to meet in executive (closed) session for very limited purposes. See A.R.S. § 38-431.03. The decision whether an executive session is allowed for a particular purpose and the agenda language for an executive session should be as approved by the town attorney.