

Rate Setting Board

April 22, 2024

9:00 a.m. – 2:30 p.m.

In Person/Zoom Attendance

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Transforming lives

TAB 1

Consumer Directed Employer Rate Setting Board

Meeting #1

April 22, 2024

Blake Office Park West 4450 10th Avenue SE, Lacey

Roosevelt / Chelan Rooms

9:00 am – 3:00 pm

Agenda

Time	Topic	Presenter(s)
9:00-9:30	➤ Welcome and Introductions	Facilitator
Open Public Meetings Act (OPMA)		
9:30-10:15	➤ Open Public Meetings Act Overview	AAG
10:15-10:30	➤ Review of the Training Requirements/Attestation	CDE Program Team
10:30-10:45	Break	
Rate Setting Overview		
10:45-11:00	➤ Rate Setting Board Overview	CDE Unit Manager
11:00-11:30	➤ Process for Exploration and Deliberation ➤ Collective Bargaining/Rate Setting	Facilitator
Board Chair Review		
11:30-11:45	➤ RSB Chair Candidate Review	All
11:45-12:00	➤ Board Discussion	
12:00-1:00	Lunch	
1:00-1:20	➤ Overview of Voting Process and Membership	All
1:20-1:30	➤ Vote of Chair	
Board Groundwork		
1:30-2:15	➤ Bylaws Review, Discuss and Update ➤ Vote on Bylaws ➤ Charter Review, Discuss and Update ➤ Vote on Charter ➤ Policies & Procedures Review, Discuss and Update ➤ Vote on P&Ps	All
2:15-2:30	➤ Public Comment	Facilitator
2:30	Adjourn	

Please note the agenda times may vary due to the flow of the meeting conversation

Rate Setting Board Members

Charles Reed	Chair
Adam Glickman*	Exclusive Bargaining Unit Designee
Bea Rector*	DSHS Representative
Ben Bledsoe*	CDE Representative
Cynthia Hollimon*	Governor's Office Representative
Rep. Kelly Chambers^	House of Representatives (R)
Rep. Steve Tharinger^	House of Representatives (D)
Senator Ron Muzzall^	Senate (R)
Senator Annette Cleveland^	Senate (D)
Georgiann Dustin^	State Council on Aging Representative
Open Position^	People with Intellectual or Developmental Disabilities Organization
Open Position^	People with Disabilities Organization
Eric Erickson^	Licensed Home Care Agency
Nellie Prieto^	Home Care Worker

*Voting member, ^Advisory member



Transforming lives

Rate Setting Board Meeting Schedule

April 22, 2024 9:00am – 2:30pm	In Person/Zoom
April 24, 2024 9:00am – 3:00pm	In Person/Zoom
May 6, 2024 9:00am – 3:00pm	In Person/Zoom
May 17, 2024 9:00am – 3:00pm	In Person/Zoom
May 29, 2024 9:00am – 3:00pm	In Person/Zoom
June 5, 2024 9:00am – 3:00pm	In Person/Zoom
June 13, 2024 9:00am – 3:00pm	In Person/Zoom
July 8, 2024 9:00am – 3:00pm	In Person/Zoom
July 25, 2024 9:00am – 3:00pm	In Person/Zoom
August 5, 2024 9:00am – 3:00pm	In Person/Zoom

TAB 2



Open Public Meetings Act RCW 42.30

May 2024

Prepared by Washington State Attorney General's Office



Washington's Open Public Meetings Act (OPMA)

- Passed in 1971
- Requires meetings to be open to the public, gavel to gavel.
- RCW 42.30

Open Government Laws Like the OPMA are Often Called “Transparency Laws” or “Sunshine Laws” because they “shine light” on government.

Transparency builds public confidence in government.

"Sunlight is the best disinfectant."



U.S. Supreme Court Justice
Louis Brandeis

Purpose

“The people do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so they may retain control over the instruments they have created.”

Public commissions, boards, councils, etc. listed in OPMA are agencies of this state that exist to aid in the conduct of the people’s business.

Their actions are to be taken openly and deliberations conducted openly.

RCW 42.30.010



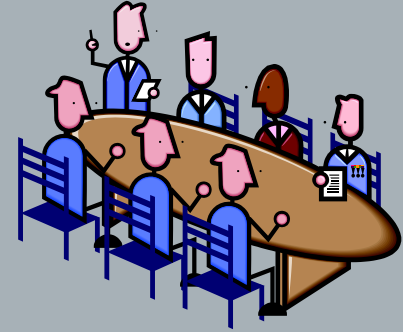
The purpose of the OPMA is to allow the public to view the “decision making process.”

Washington State Supreme Court

The OPMA Applies To

All meetings of the **GOVERNING BODY** of a **PUBLIC AGENCY** shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in RCW 42.30.

RCW 42.30.030



What is a Governing Body?

The multimember board or other policy or rule-making body of a public agency.

OR

Any committee of such public agency *when:*

- the committee acts on behalf of the governing body,
- conducts hearings, or
- takes testimony or public comment.

RCW 42.30.020

What is a Public Agency

- **Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature.**
- Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of Washington.
- Any subagency of a public agency which is created by or pursuant to statute, ordinance, or legislative act, including but not limited to planning commissions, library or park boards.
- Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state



The OPMA Does Not Apply To

These entities:

- Courts
- Legislature
- Agencies not defined as “public agency” in OPMA, such as agencies governed by a single individual
- Private organizations



These activities:

- Licensing/permitting for businesses, occupations or professions or their disciplinary proceedings (or proceedings to receive a license for a sports activity, or to operate a mechanical device or motor vehicle)
- Quasi-judicial matters
- Matters governed by the WA Administrative Procedure Act, RCW 34.05
- Collective bargaining

What is a Meeting?

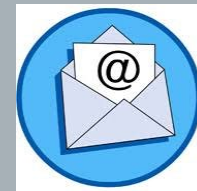
- “Meeting” means meetings at which the public agency takes “action.”
- “Action” means the transaction of the official business of the public agency and includes but is not limited to:
 - Public testimony
 - All deliberations
 - Discussions
 - Considerations
 - Reviews
 - Evaluations
 - Final actions*



* The requirements of the OPMA are triggered whether or not “final” action is taken.
(See upcoming slide on “final action.”)

“Meeting” (Continued)

- A “meeting” of a governing body occurs when a majority of its members (quorum) gathers with the collective intent of transacting the governing body’s business.
 - Physical presence not required – a meeting can occur by phone or e-mail.
 - An exchange of e-mail could constitute a meeting if, for example, a quorum of the members participate in the e-mail exchange & discuss agency business.
 - Does not need to be titled “meeting” – OPMA also applies to “retreats,” “workshops,” “study sessions,” etc.
- Simply receiving information without comment is not a meeting.



Final Action

- “**Final action**” is a collective positive or negative decision, or an actual vote, by a majority of the governing body, or by the “committee thereof”.
- Must be taken in public, even if deliberations were in closed session.
- Secret ballots are not allowed.



Travel and Gathering

- A majority of the members of a governing body may travel together or gather for purposes other than a regular meeting or a special meeting, so long as no action is taken.
- Discussion or consideration of official business would be action, triggering the requirements of the OPMA.



OPMA MEETING TYPES



Regular

Special

Emergency

Notice and agenda requirements vary based on the type of meeting.

Regular Meetings

“**Regular meetings**” are recurring meetings held in accordance with a periodic schedule by ordinance, resolution, bylaws or other rule.

- A state public agency must:
 - Yearly, file with Code Reviser a schedule of regular meetings, including time and place
 - Publish changes to regular meeting schedule in state register at least 20 days prior to the rescheduled date



Regular Meetings (Continued)

Agenda notice requirements apply to regular meetings.

- RCW 42.30.077 requires governing bodies to make the agenda of each regular meeting of the governing body available online no later than 24 hours in advance of the published start time of the meeting.
- This law does not:
 - *Apply to agencies that do not have websites.*
 - *Apply to agencies that employ fewer than 10 full-time employees.*
 - Restrict agencies from later modifying an agenda.
 - Invalidate otherwise legal actions taken at a regular meeting where agenda was not posted 24 hours in advance.
 - Satisfy public notice requirements established under other laws.
 - Provide a basis to award attorneys fees or seek court order under OPMA if agenda is not posted in accordance with this law.



Special Meetings

A “**special meeting**” is a meeting that is not a regular meeting (not a regularly scheduled meeting).

Called by presiding officer or majority of the members.

Notice - timing: 24 hours before the special meeting, written notice must be:

- Given to each **member** of the governing body (unless waived)
- Given to each **local newspaper of general circulation, radio, and TV station** which has a notice request on file
- Posted on the **agency’s website** [with certain exceptions in RCW 42.30.080(2)(b), for example, if the agency does not have a website]
- Prominently **displayed at the main entrance** of the agency’s principal location and the meeting site (if not that same location)



Special Meetings (Continued)

Notice - contents

The special meeting notice must specify:

- Time
- Place
- Business to be transacted (agenda)



Final disposition shall not be taken on any other matter at such meeting

Emergency Meetings

- Notice is not required when special meeting called to deal with an emergency
- Emergency involves injury or damage to persons or property or the likelihood of such injury or damage
- Where time requirements of notice make notice impractical and increase likelihood of such injury or damage



Public Attendance

A public agency can't place conditions on public to **attend** meeting subject to OPMA:

- For proceedings governed by OPMA, cannot require people to:
 - Register their names or other information,
 - Complete a questionnaire, or
 - Otherwise fulfill any condition precedent to attendance

Reasonable rules of conduct can be set (see upcoming slide on disruptive conduct).

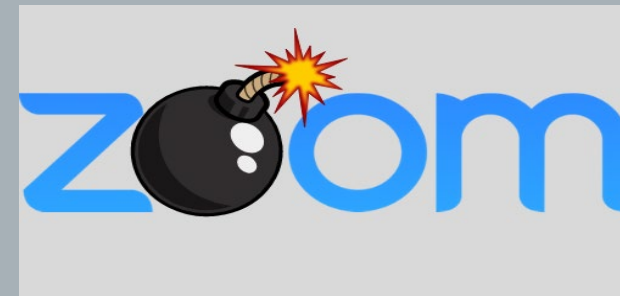
Cameras and tape recorders are permitted unless disruptive

Public Comment

- No “public comment” period required by OPMA.
- Agency specific statute may require “public comment.”

Interruptions and Disruptions

- The OPMA provides a procedure for dealing with situations where a meeting is being interrupted so the orderly conduct of the meeting is unfeasible, and order cannot be restored by removal of the disruptive persons.
- Meeting room can be cleared and meeting can continue, or meeting can be moved to another location, but final disposition can occur only on matters appearing on the agenda. More details set out in the OPMA.



Executive Session

- Part of a regular or special meeting that is closed to the public.
- Limited to specific purposes set out in the OPMA.
- Purpose of the executive session and the time it will end must be announced by the presiding officer before it begins.
- Time may be extended by further announcement.



Executive Session

Specified purposes set out in OPMA. Includes, for example:

Real estate

- Site selection or acquisition of real estate
 - Lease or purchase
 - Public knowledge would likely increase price
- **Sale or lease**
 - Public knowledge would likely decrease price
 - Final action selling or leasing public property must be taken at open meeting

Publicly bid contracts

- Review negotiations on performance
- Public knowledge would like increase costs

Evaluate qualifications of applicant for public employment

National security

Other purposes listed in RCW 42.30.110

Executive Session (Continued)

Specified purposes set out in OPMA. Includes, for example:

Discuss Agency Enforcement Actions, Litigation or Potential Litigation

Three Requirements

- Purpose is to discuss agency enforcement action, litigation or potential litigation to which the agency, governing body, or a member acting in official capacity is, or is likely to become, a party.
- Public knowledge regarding discussion likely to result in an adverse legal or financial consequence to the agency.
- Legal counsel representing the agency is present. This executive session is not permitted just because legal counsel is present.

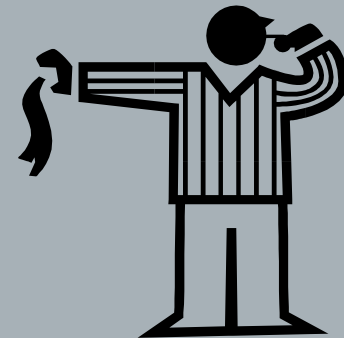


Public Comment

- ▶ Effective 6/9/22, governing body must provide an opportunity for public comment at or before every regular meeting at which final action is taken (not special meetings)
- ▶ Must allow public to comment orally at the meeting, or by written comment before the meeting
 - ▶ Agency can limit comments to written comments
 - ▶ Agency can put limitations on time available or how public comment is accepted

Penalties for Violating the OPMA

- A court can impose a \$500 civil penalty against each member (personal liability) who knowingly attends a meeting in violation of OPMA; and \$1000 for a subsequent knowing violation.
- Court will award costs and attorney fees to a successful party seeking the remedy.
- Action taken at meeting can be declared null and void.



Minutes

- Minutes of public meetings must be promptly recorded and open to public inspection.
- Minutes of an executive session are not required.
- No format specified in law.



Risk Management Tips

- Establish a culture of compliance with the OPMA.
- Receive training on the OPMA.
- Review available resources; institute best practices.
- Keep updated on current developments in OPMA; correctly apply law.
 - *Remember: the OPMA can change through amendments, or develop through case law.*
 - *Remember: other laws can govern an agency's meeting procedures.*
- Consult with agency's legal counsel.



OPMA Training

- The “Open Government Trainings Act” requires OPMA training for every member of a governing body within 90 days of taking their oath or assuming their duties. Refresher training occurs no later than every 4 years.
- Training can be taken online, in person, or by other means.
- Training resources, videos, and more information about the Act (a “Q & A”) are available on the Attorney General’s Office Open Government Training Web Page:
<http://www.atg.wa.gov/OpenGovernmentTraining.aspx>



MRSC OPMA Resources

Municipal Research & Services Center – Another Resource

OPMA – AGENCY OBLIGATIONS: A STARTING POINT

PRACTICE TIPS
For Local Government Success

The basic requirement of the Open Public Meetings Act (OPMA) is that meetings of governing bodies be open and public. Use these practice tips to guide your agency's OPMA compliance.* For more information and resources visit www.mrsc.org/opmapra.

Basic Requirements

- All meetings open and public. All meetings of governing bodies of public agencies must be open to the public, except for certain exceptions outlined in the OPMA. RCW 42.30.030.
- Quorum. Generally, a meeting occurs when a quorum (majority) of the governing body is in attendance and action is taken, which includes discussion or deliberation as well as voting. RCW 42.30.020(2) & (3).
- Attendees. All persons must be permitted to attend and attendees cannot be required to register their names or other information as a condition of attendance. Disruptive and disorderly attendees may be removed. RCW 42.30.040 & .050.
- No secret ballots. Votes may not be taken by secret ballot. RCW 42.30.060(2).
- Adoption of ordinances. Ordinances, resolutions, rules, regulations, and orders must be adopted at a public meeting or they are invalid. RCW 42.30.060(1).

Position in Agency	Required to Comply
Member of a governing body <ul style="list-style-type: none"> City or Town Councilmember or Mayor County Commissioner or County Councilmember Special Purpose District Commissioner/Board Member 	Yes
Member of a subagency created by ordinance or legislative act, e.g.: <ul style="list-style-type: none"> Planning Commission Library Board Perks Board Civil Service Commission 	Yes
Member of a committee <ul style="list-style-type: none"> Committees that act on behalf of the governing body, conduct hearings, or take testimony or public comment 	Yes
Agency staff	No

Penalties for Noncompliance

- Actions null and void. Any action taken at a meeting which fails to comply with the provisions of the OPMA is null and void. RCW 42.30.080(1).
- Personal liability. Potential personal liability of \$100 for any member of a governing body who attends a meeting knowing that it violates the OPMA. RCW 42.30.120(1).
- Agency liability. Any person who prevails against an agency in any action in the courts for a violation of the OPMA will be awarded all costs, including attorney fees, incurred in connection with such legal action. RCW 42.30.120(2).

OPMA Training Requirements, Effective July 1, 2014

- Every member of a governing body of a public agency must complete training requirements on the OPMA within 90 days of assuming office or taking the oath of office.
- In addition, every member of a governing body must complete training at intervals of no more than four years as long as they remain in office.

*DISCLAIMER: These practice tips are meant to provide summary information on basic agency obligations of the OPMA; the practice tips are not intended to be regarded as specific legal advice. Consult with your agency's legal counsel about this topic as well. May 2014

OPMA – NOTICE REQUIREMENTS

PRACTICE TIPS
For Local Government Success

Under the Open Public Meetings Act (OPMA), to ensure that agency deliberations and other actions are conducted and taken openly, agencies are required to provide sufficient public notice of their meetings. Use these practice tips as a starting guide for OPMA notice requirements.* For more information and resources visit www.mrsc.org/opmapra.

	Regular Meetings (RCW 42.30.070)	Special Meetings (RCW 42.30.080)
Definition	Held in accordance with a schedule fixed by ordinance, resolution, bylaws, or other rule.	Anything other than a regular meeting. May be called by the presiding officer or a majority of the members of the governing body.
Notice and Agenda	Effective June 12, 2004, agendas must be made available on the agency's website at least 24 hours in advance of the meeting unless the agency: <ol style="list-style-type: none"> Doesn't have a website; or Employs fewer than 10 full-time equivalent employees. There are no other notice requirements for regular meetings in the OPMA. However, other relevant laws apply to some local governments. For example, cities and towns are required to establish a procedure for notifying the public of the preliminary agenda for the forthcoming council meeting (although not necessarily online) as well as regarding upcoming hearings. RCW 35A.12.160; RCW 35.22.280; RCW 35.23.221; RCW 35.27.300. There are no similar requirements for counties or special purpose districts related to preliminary agendas.	The special meeting notice must specify the date, time, and place of the special meeting, and the business to be transacted. <ul style="list-style-type: none"> Personal notice. Written notice must be delivered personally, by mail, fax, or e-mail at least 24 hours before the meeting to: <ol style="list-style-type: none"> Each member of the governing body unless the member submits a written waiver of notice in advance with the clerk, or the member is actually present at the meeting; and Each member of the news media who has on file with the governing body a written request for notice of special meetings. Website notice. Notice must be posted on the agency's website 24 hours in advance of the meeting unless the agency: <ol style="list-style-type: none"> Doesn't have a website; or Employs less than 10 full-time equivalent employees; or Doesn't employ personnel whose duty as defined by a job description or existing contract, is to maintain or update the website. Notice at agency's principal location. Notice must be prominently displayed at the main entrance of the agency's principal location and the meeting site if the meeting isn't held at the agency's principal location.
Emergencies	In an emergency situation (e.g., fire, flood, earthquake, or other emergency), a meeting may be held at a site other than the regular meeting site, and the notice requirements under the OPMA are suspended during such an emergency.	The notices required for special meetings aren't required if a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.
Holidays	Regular meetings shall not be held on holidays. If a regular meeting falls on a holiday, the meeting must be held on the next business day.	Although not specifically addressed by the OPMA, we recommend that special meetings not be held on holidays out of consideration for public participation.
Business Transacted	There are no restrictions on the type of business that may be transacted at regular meetings.	Real disposition cannot be taken on any matter not listed in the special meeting notice.

*DISCLAIMER: These practice tips are meant to provide summary information on the notice requirements of the OPMA; these tips are not intended to be regarded as specific legal advice. Consult with your agency's legal counsel about this topic as well. May 2014

OPMA – EXECUTIVE SESSIONS

CHECKLIST
For Local Government Success

The Open Public Meetings Act (OPMA) requires specific steps be taken in order to hold an executive session. Use this checklist to guide your agency's compliance with the OPMA related to executive sessions.* For more information and resources visit www.mrsc.org/opmapra.

	Requirement	Completed/ Applicable
Meeting	An executive session can only be held as part of a regular or special meeting.	<input type="checkbox"/>
Purpose	The presiding officer announces in open session the purpose of the executive session.	<input type="checkbox"/>
End Time	The presiding officer announces in open session the time the executive session will end.	<input type="checkbox"/>
Legal Counsel	Legal counsel is present during the executive session, if required. (See topics below end on the next page for discussions that require the presence of legal counsel.)	<input type="checkbox"/>
Confidentiality	At the start of the executive session, participants are reminded that discussions are confidential.	<input type="checkbox"/>
Topics	Related to local governments, the following topics set forth in RCW 42.30.110(1) can be discussed in executive session:	
	<ul style="list-style-type: none"> Matters affecting national security. RCW 42.30.110(1)(a). Lease or purchase of real estate if there's a likelihood that disclosure would increase the price. RCW 42.30.110(1)(b). Consideration of the minimum offering price for sale or lease of real estate if there's a likelihood that disclosure would decrease the price. RCW 42.30.110(1)(c). <ul style="list-style-type: none"> Note: First action setting or leasing public property must be taken in open session. Negotiations on the performance of a publicly bid contract. RCW 42.30.110(1)(d). See back of page. Complaints or charges brought against a public officer or employee. RCW 42.30.110(1)(e). <ul style="list-style-type: none"> Note: At accuser's request, discussion must be in open session. Qualifications of an applicant for public employment. RCW 42.30.110(1)(g). See back of page. Performance of a public employee. RCW 42.30.110(1)(i). See back of page. Qualifications of an applicant/candidate for appointment to elective office. RCW 42.30.110(1)(j). See back of page. Agency enforcement actions. RCW 42.30.110(1)(k). See back of page. <ul style="list-style-type: none"> Note: Requires presence of legal counsel. Current or potential litigation. RCW 42.30.110(1)(l). See back of page. <ul style="list-style-type: none"> Note: Requires presence of legal counsel. Legal risks of current or proposed action. RCW 42.30.110(1)(m). See back of page. 	
Indefinite Time	If the executive session is not completed by the originally announced end time, the presiding officer announces the extended end time in open session before returning to executive session.	<input type="checkbox"/>
Adjourn	Open session is not resumed until after the announced end time.	<input type="checkbox"/>
Date	Form Completed By _____	
<small>*DISCLAIMER: This checklist is meant to provide summary information on executive sessions; the checklist is not intended to be regarded as specific legal advice. Consult with your agency's attorney about this topic as well. May 2014</small>		



TAB 3

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Lives

CDE Rate Setting Board Overview For Board Members

April 22, 2024



Who Are You? (Rate Setting Board)

The Consumer Directed Employer (CDE) rate setting board (RSB) is a 14-person board which exists to evaluate and propose the rate to be paid to the CDE and can make a recommendation regarding the administrative vendor rate for home care agencies.

The board consists of:

- 4 voting members
- 9 non-voting advisory members
- 1 chairperson (casts tie-breaking vote)

Why/How RSB was Established?

[RCW 74.39A.500-530](#) came into statute in 2018. It established the Consumer Directed Employer (CDE) program in Washington state.

The program provides personal care, respite care, and similar services to individuals with functional impairments under programs authorized through the Medicaid state plan or Medicaid waiver authorities and similar state-funded in-home care programs.

The Rate Setting Board (RSB) is one of the program components required under the statute.

Rate Setting Process

- RSB examine member proposals without bargaining IP pay or benefits.
- All members provide input then voting members cast vote on proposed rate.
- If 4 voting members are split on decision after July 1, the Chairperson serves as tiebreaker.
- Rate submitted to legislature for yes/no funding decision.
- Collective bargaining on pay/benefits occurs between union and CDE.
- CDE implements changes.

Board Member Roles & Responsibilities

1. Regularly and consistently attend the board meetings.
2. Comply with the Open Public Meetings Act (OPMA) requirements, including completing required trainings.
3. Review materials prior to each meeting and come prepared for discussion.
4. Collaboratively discuss the materials.
5. Ask questions or request more information.

What You Should Plan for as a Board Member

1. Time to review materials in advance.
2. Be thoroughly familiar with the materials your organization will be presenting.
3. Plan for time between meetings to follow up on action items, solicit feedback, and get answers to questions within your organization.
4. Seek out expert input and advice as needed.
5. Be prepared to bring questions and responses back to the board.

What to Expect from the Chair

1. Acts as the Board's formal spokesperson.
2. Presides over the Board meetings:
 - Opens and closes the meetings.
 - States the purpose and reviews the timeline.
 - Reviews the meeting agenda.
 - Gets approval of meeting minutes.
 - Calls for votes.

What to Expect from the Chair (con't)

4. Oversees the voting process.
5. Casts a tie-breaking vote if the voting members fail to reach agreement on the labor rate prior to July 1.
6. Supports members of the Board.
7. Participates in planning and meeting debriefs as necessary.

What to Expect from the RSB Staff

1. Publish agendas.
2. Coordinate with facilitator.
3. Follow up on action items and questions between meetings.
4. Posting materials and notes on RSB website.
5. Monitor the CDERateSettingBoard@dshs.wa.gov inbox.

Who is on the RSB?

Name	Position
Cynthia Hollimon	*Governor's Office Representative
Bea Rector	DSHS Representative
Ben Bledsoe	CDE Representative
Adam Glickman	Exclusive Bargaining Unit Designee
Representative Kelly Chambers	House of Representatives (R)
Representative Steve Tharinger	House of Representatives (D)
Senator Ron Muzzall	Senate (R)
Senator Annette Cleveland	Senate (D)
Georgiann Dustin	*State Council on Aging Representative
Open	*People with Intellectual or Developmental Disabilities Organization
Open	*People with Disabilities Organization
Eric Erickson	Licensed Home Care Agency
Nellie Prieto	Home Care Worker

**Governor appointed positions*

Additional Resources

RCW <https://app.leg.wa.gov/RCW/default.aspx?cite=74.39A.500>

Websites

- Rate Setting Board page:
<https://manuals.dshs.wa.gov/altsa/stakeholders/consumer-directed-employer-rate-setting-board>
- Boards and Commissions page:
<https://www.governor.wa.gov/boards-commissions/board-and-commissions/profile/Consumer%20Directed%20Employer%20Rate%20Setting%20Board>

Consumer Directed Employer Rate Setting Board

RCW 74.39A.530 established the Consumer Directed Employer (CDE) rate setting process with the purpose of proposing the CDE vendor rate which consist of an administrative and IP labor components. The legislation established a 14-person board to evaluate and propose the rate to be paid to the CDE. The rate setting board (RSB) meets every even-numbered year.

For more information about the CDE please go to CDE website

Date & Time	Location	Materials
March 21, 2022 9:00am - 12:00pm	Virtual Meeting Join with Zoom https://dshs-telehealth.zoom.us/j/86587690578?pwd=LzVoSXRISXZ2dEVYMDplcHVpcjI0dz09 Meeting ID: 865 8769 0578	

Transforming
Lives

Questions?

TAB 4

Navigating the CDE Rate Setting Board Process



Center
For Dialog & Resolution

Your Facilitation Team

Maralise Hood Quan

Maralise is the Director of the Center for Dialog & Resolution. She brings experience from United Nations University for Peace in armed conflict, civil war, and peace treaties.

She also brings public policy experience as a staff in the legislature, and later specializing in public policy mediation.

Maralise returned from Central America to be a respite caregiver for her mother.

Josh Cole

As the Facilitation and Training Assistant for CDR, Josh is the glue that makes every online facilitation, mediation and training happen flawlessly.

He prides himself on his ability to work with a team and handle challenging projects.

On a perfect day, Josh would spend time with family.

Getting to Know You

Please share:

- Your name (and pronunciation)
- Your organization & job title
- Your vision of future long-term care services, taking into consideration the anticipated silver tsunami?



CDE Rate Setting Board Draft By Laws

Mission Statement

The Board's mission is to determine a rational and sound rate guided by the joint goals of:

- continuing a successful self-directed care in-home program and
- promoting the growth of the individual provider (IP) workforce,
- while sustaining the Consumer Directed Employer(CDE).

Center for Dialog & Resolution Role

- Facilitation support to presiding chair
- Process consultation to meet goals and requirements
- Support staff and chair to adjust design process

Board Members Role



Attend board meetings



Make proposals



Between meetings:
read, review and
come prepared



Share experience,
expertise and
recommendations



Make, review, give
feedback/discuss &
refine proposals



Function of the Rate Setting Board

Bring diverse perspectives & expertise to:

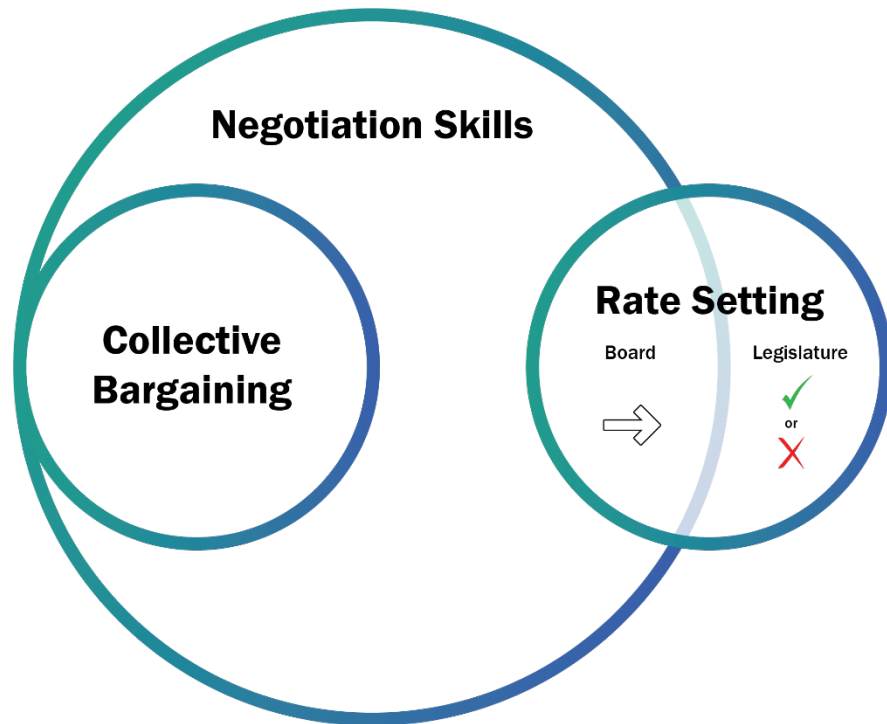
- Review proposals for rate setting
- Discuss and evaluate rational and sound rates
- Recommend rates to the legislature

Topics:

Labor Rate: portion pay to IP includes wages, benefits & associated taxes

Administrative Rate: compensate CDE for administrative duties

Rate setting does not include collective bargaining



- **Negotiation** is the skill parties use to reach mutually acceptable agreements.
- **Collective bargaining** is rule making process that formulates the terms and conditions under which the worker's group and management, may cooperate and work together.
- **Rate Setting** is a process that a public body, with representation of stakeholders reviews, evaluates and recommends to the legislature the rate which includes a labor and an administrative component.



How We Review Proposals

Commitment:

learn from one another, think deeply, and engage in dialog

Proposals: I am willing to:

- **listen** to understand others' perspectives
- **share** additional benefits or unintended consequences
- **identify** strengths and challenges of proposals
- **participate** in improving proposals

Ways to foster productive dialog ...

- Listen, summarize, and ask curious questions
- Expect curious questions
- Respond, don't react
- Take deep breaths
- Be a thought partner



Next Steps

Share

Share necessary resources

Review

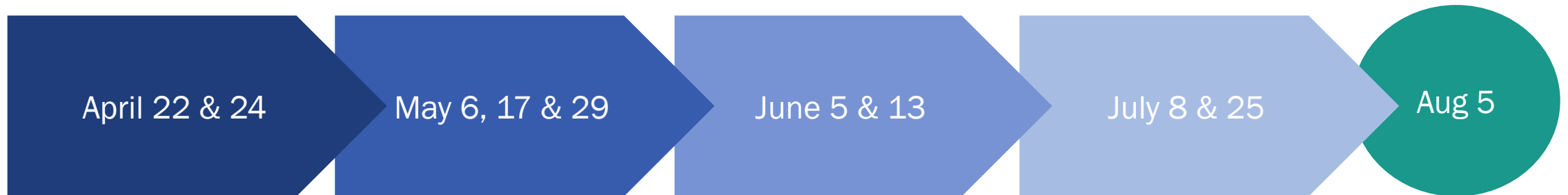
Review shared resources

Prepare

Prepare questions



CDE Rate Setting Board 2024



Thank You!

CenterForResolution.org

253.572.3657

CDERateSettingBoard@CenterForResolution.org

MHQ@CenterForResolution.org



TAB 5

Consumer Directed Employer (CDE) Rate Setting Board

Policy & Procedure #01: Selecting the Rate Setting Board Chairperson

Policy:

The Rate Setting Board (Board) will select a Chairperson (Chair) as the first order of business of each two-year cycle as described in RCW [74.39A.530](#) Section 5.

Original Effective Date: 04/18/2022

Revision Date: NA

Purpose:

This procedure describes the process for selecting the Board Chair, who's duties will include, among others, casting the tie-breaking vote if the voting members are unable to pass the labor rate by majority vote.

Procedure:

1. As the first order of business, the voting members of the Board shall select, by majority vote, an additional voting member who will chair the Board. Each voting member will bring 2 potential candidate names for discussion. Those candidates must be willing and able to serve in this role.
2. If the voting members fail to select a Chair, the following selection process will be pursued:
3. The first time that the voting members fail to select a tie-breaking member by a majority vote:
 - a. The voting member representing the governor's office shall bring to the meeting a list of five qualified arbitrators, or six if there are two CDEs, from the federal mediation and conciliation service.
 - b. If a majority of the voting members of the Board cannot agree on the selection of a neutral arbitrator from the list, the following order of Board members strike names off the list.
 - (i) Representative from the CDE who first contacted the department (contracted)
 - (ii) The representative from the governor's office
 - (iii) The designee from the exclusive bargaining representative or, in the absence of an exclusive bargaining representative, the designee from the consumer directed employer workforce
 - (iv) If there are two consumer directed employers, the second representative shall strike a name
 - (v) The representative from the department.
 - c. The name of the arbitrator remaining after the final strike shall be the Chair.
 - d. If that person is not willing or available to be the Chair, the second to last person remaining on the list shall be asked to be the Chair.
 - e. If the second to last person is not willing or available, the third to last person shall be asked to be the Chair.
 - f. This process of selecting an arbitrator shall continue until a Chair is appointed.
4. The subsequent time the voting Board members fail to select a Chair by a majority vote, the Chair will be selected using the method described in items 3(b) through 3(f) of this procedure, except that the order of Board members striking names from the list described shall be reversed.

5. On each successive occasion that the voting members fail to select a Chair by a majority vote, the order of Board members striking names from the list will continue to alternate between the order described in items 3(b) through 3(f) of this procedure.
6. The need to invoke steps and the sequence in which Board members struck names from the list described above shall be detailed in the meeting minutes.

Charles Reed

Charles E. Reed retired as Deputy Secretary of the Washington State Department of Social and Health Services (DSHS) in the year 2000. DSHS is the umbrella agency for Medicaid and a wide variety of human services. For many years prior to becoming Deputy Secretary, Mr. Reed headed the department's Aging and Adult Services Administration. In this capacity, he pioneered the development of a comprehensive long-term care system responsive to client choice. Washington State has been recognized nationally for expanding home and community care options, while controlling costs.

Throughout his career, Mr. Reed has served in leadership positions with a number of national organizations, including the National Academy of State Health Policy and the National Association of State Units on Aging. After retiring from the DSHS Mr. Reed consulted and volunteered with several state and national organizations. He also served as Chair of the Washington State Home Care Quality Authority. He Served on the National AARP Policy Council and chaired the Councils Health and Long-Term Care Committee. He then served for six years on the National Board of Directors of AARP. He is now retired and lives in Olympia, Washington.

Candidate Questions

1. Why do you want to be the Chair for the CDE Rate Setting Board?

For many years I have had a great interest in the Washington State Long-Term Care System and how it meets the needs of its consumers, their families and the workers who provide services throughout the system. I feel the appropriate fair rates that are paid to the workers in the Washington system are a critical factor in the success or failure of the system. As Board Chair I feel I could help in achieving the goal of continuing improvement of the Washington States Long-Term Care System.

2. What is your experience and knowledge of long-term care in WA, specifically in-home personal care and respite services?

I had been employed in the Washington State Aging and Long-Term Care System beginning in 1966 through 1996 when I then became the Assistant Secretary of the Department of Social and Health Services. While I was Director of the Washington State Aging Agency, I was the key leader in developing one of the most highly rated and recognized Long-Term Care System in the United States. The Washington System is based on providing a wide range of viable long-term care options for consumers and their families while controlling cost. I was very much involved in supporting and developing personal care and respite services throughout the state of Washington. After retiring from Washington State, I consulted for other states on how to develop such services.

3. What strengths and weaknesses do you have that would influence your work as a RSB chair?

Strengths

I have a good working knowledge of how the Washington State Aging and Long-Term Care System is structured and how it works. I understand it's strengths and weaknesses. I know and have worked with many of the people who currently advocate for, plan, operate and work in the System today. I have been involved with many Boards and Committees dealing

with Aging and Long-Term Care issues in the State of Washington and at the national level. I have served as Board or Committee Chair of many of these bodies. For example, after I retired from Washington State employment, Gov Lock asked me to Chair the newly created Home Care Quality Board which had the responsibility of negotiating with home care workers belonging to SEIU that for the first time would be involved in setting rates for homecare workers.

Over the years of Chairing several different types of Boards and Committees I have learned the importance of respect of all members and the range of views on a given topic and the process of consensus building to arrive at an agreed upon goal.

Over the years while working for the Department of Social and Health Services I developed a good working relationship with people working in the Governor's office and with legislators and legislative staff.

Weaknesses

I am getting pretty old; I am 83 but I am still in good health. My weakness may be that I have the possibility I may have to use some of the Washington Long-Term Care services before others of the Board my need them. This could however also be a strength rather than a weakness.

4. Have you been a member of or Chair of other Boards?

I have been a member of many Boards and Committee over the years such as,

- Chair 2022 CDE Rate Setting Board
- Chair Washington State Home Care Quality Authority
- Chair of National Associations of State Units on Aging
- Chair of National AARP Policy Council Health and Long-Term Care Committee
- Chair of National AARP Insurance Trust
- Served on AARP National Board of Directors for 6 years

TAB 6



Transforming lives

Rate Setting Board

[Approved By-Laws](#)

[Approved Charter](#)

[Approved Policy Selecting Chairperson](#)

[Approved Policy Establishing and Submitting Rates](#)

TAB 7

Transforming
Lives

Consumer Directed Employer (CDE) Rate Setting Board (RSB)

Meeting #1 | **Agenda** | April 22, 2024

Blake Office Park West 4450 10th Avenue SE, Lacey

Roosevelt & Chelan Rooms

9:00 am – 2:30 pm



Agenda overview, 9:00 – 2:30

- Welcome and introductions
- Open Public Meetings Act (OPMA)
Break
- Rate setting overview
- Board chair review
Lunch
- Board groundwork

Welcome and introductions

Facilitator

Open Public Meetings Act overview

AAG



Open Public Meetings Act RCW 42.30

May 2024

Prepared by Washington State Attorney General's Office



Washington's Open Public Meetings Act (OPMA)

- Passed in 1971
- Requires meetings to be open to the public, gavel to gavel.
- RCW 42.30

Open Government Laws Like the OPMA are Often Called “Transparency Laws” or “Sunshine Laws” because they “shine light” on government.

Transparency builds public confidence in government.

"Sunlight is the best disinfectant."



U.S. Supreme Court Justice
Louis Brandeis

Purpose

“The people do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so they may retain control over the instruments they have created.”

Public commissions, boards, councils, etc. listed in OPMA are agencies of this state that exist to aid in the conduct of the people’s business.

Their actions are to be taken openly and deliberations conducted openly.

RCW 42.30.010



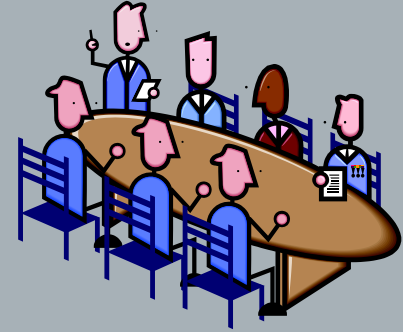
The purpose of the OPMA is to allow the public to view the “decision making process.”

Washington State Supreme Court

The OPMA Applies To

All meetings of the **GOVERNING BODY** of a **PUBLIC AGENCY** shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in RCW 42.30.

RCW 42.30.030



What is a Governing Body?

The multimember board or other policy or rule-making body of a public agency.

OR

Any committee of such public agency *when:*

- the committee acts on behalf of the governing body,
- conducts hearings, or
- takes testimony or public comment.

RCW 42.30.020

What is a Public Agency

- **Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature.**
- Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of Washington.
- Any subagency of a public agency which is created by or pursuant to statute, ordinance, or legislative act, including but not limited to planning commissions, library or park boards.
- Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state



The OPMA Does Not Apply To

These entities:

- Courts
- Legislature
- Agencies not defined as “public agency” in OPMA, such as agencies governed by a single individual
- Private organizations



These activities:

- Licensing/permitting for businesses, occupations or professions or their disciplinary proceedings (or proceedings to receive a license for a sports activity, or to operate a mechanical device or motor vehicle)
- Quasi-judicial matters
- Matters governed by the WA Administrative Procedure Act, RCW 34.05
- Collective bargaining

What is a Meeting?

- “Meeting” means meetings at which the public agency takes “action.”
- “Action” means the transaction of the official business of the public agency and includes but is not limited to:
 - Public testimony
 - All deliberations
 - Discussions
 - Considerations
 - Reviews
 - Evaluations
 - Final actions*



* The requirements of the OPMA are triggered whether or not “final” action is taken.
(See upcoming slide on “final action.”)

“Meeting” (Continued)

- A “meeting” of a governing body occurs when a majority of its members (quorum) gathers with the collective intent of transacting the governing body’s business.
 - Physical presence not required – a meeting can occur by phone or e-mail.
 - An exchange of e-mail could constitute a meeting if, for example, a quorum of the members participate in the e-mail exchange & discuss agency business.
 - Does not need to be titled “meeting” – OPMA also applies to “retreats,” “workshops,” “study sessions,” etc.
- Simply receiving information without comment is not a meeting.



Final Action

- “**Final action**” is a collective positive or negative decision, or an actual vote, by a majority of the governing body, or by the “committee thereof”.
- Must be taken in public, even if deliberations were in closed session.
- Secret ballots are not allowed.



Travel and Gathering

- A majority of the members of a governing body may travel together or gather for purposes other than a regular meeting or a special meeting, so long as no action is taken.
- Discussion or consideration of official business would be action, triggering the requirements of the OPMA.



OPMA MEETING TYPES



Regular

Special

Emergency

Notice and agenda requirements vary based on the type of meeting.

Regular Meetings

“**Regular meetings**” are recurring meetings held in accordance with a periodic schedule by ordinance, resolution, bylaws or other rule.

- A state public agency must:
 - Yearly, file with Code Reviser a schedule of regular meetings, including time and place
 - Publish changes to regular meeting schedule in state register at least 20 days prior to the rescheduled date



Regular Meetings (Continued)

Agenda notice requirements apply to regular meetings.

- RCW 42.30.077 requires governing bodies to make the agenda of each regular meeting of the governing body available online no later than 24 hours in advance of the published start time of the meeting.
- This law does not:
 - *Apply to agencies that do not have websites.*
 - *Apply to agencies that employ fewer than 10 full-time employees.*
 - Restrict agencies from later modifying an agenda.
 - Invalidate otherwise legal actions taken at a regular meeting where agenda was not posted 24 hours in advance.
 - Satisfy public notice requirements established under other laws.
 - Provide a basis to award attorneys fees or seek court order under OPMA if agenda is not posted in accordance with this law.



Special Meetings

A “**special meeting**” is a meeting that is not a regular meeting (not a regularly scheduled meeting).

Called by presiding officer or majority of the members.

Notice - timing: 24 hours before the special meeting, written notice must be:

- Given to each **member** of the governing body (unless waived)
- Given to each **local newspaper of general circulation, radio, and TV station** which has a notice request on file
- Posted on the **agency’s website** [with certain exceptions in RCW 42.30.080(2)(b), for example, if the agency does not have a website]
- Prominently **displayed at the main entrance** of the agency’s principal location and the meeting site (if not that same location)



Special Meetings (Continued)

Notice - contents

The special meeting notice must specify:

- Time
- Place
- Business to be transacted (agenda)



Final disposition shall not be taken on any other matter at such meeting

Emergency Meetings

- Notice is not required when special meeting called to deal with an emergency
- Emergency involves injury or damage to persons or property or the likelihood of such injury or damage
- Where time requirements of notice make notice impractical and increase likelihood of such injury or damage



Public Attendance

A public agency can't place conditions on public to **attend** meeting subject to OPMA:

- For proceedings governed by OPMA, cannot require people to:
 - Register their names or other information,
 - Complete a questionnaire, or
 - Otherwise fulfill any condition precedent to attendance

Reasonable rules of conduct can be set (see upcoming slide on disruptive conduct).

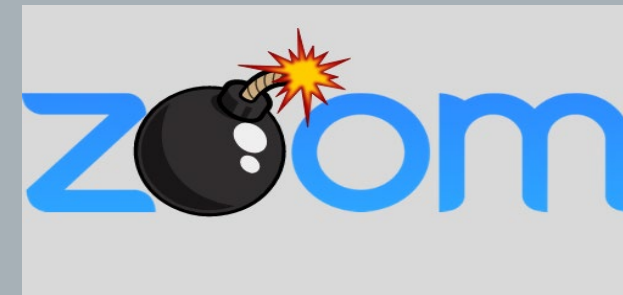
Cameras and tape recorders are permitted unless disruptive

Public Comment

- No “public comment” period required by OPMA.
- Agency specific statute may require “public comment.”

Interruptions and Disruptions

- The OPMA provides a procedure for dealing with situations where a meeting is being interrupted so the orderly conduct of the meeting is unfeasible, and order cannot be restored by removal of the disruptive persons.
- Meeting room can be cleared and meeting can continue, or meeting can be moved to another location, but final disposition can occur only on matters appearing on the agenda. More details set out in the OPMA.



Executive Session

- Part of a regular or special meeting that is closed to the public.
- Limited to specific purposes set out in the OPMA.
- Purpose of the executive session and the time it will end must be announced by the presiding officer before it begins.
- Time may be extended by further announcement.



Executive Session

Specified purposes set out in OPMA. Includes, for example:

Real estate

- Site selection or acquisition of real estate
 - Lease or purchase
 - Public knowledge would likely increase price
- **Sale or lease**
 - Public knowledge would likely decrease price
 - Final action selling or leasing public property must be taken at open meeting

Publicly bid contracts

- Review negotiations on performance
- Public knowledge would like increase costs

Evaluate qualifications of applicant for public employment

National security

Other purposes listed in RCW 42.30.110

Executive Session (Continued)

Specified purposes set out in OPMA. Includes, for example:

Discuss Agency Enforcement Actions, Litigation or Potential Litigation

Three Requirements

- Purpose is to discuss agency enforcement action, litigation or potential litigation to which the agency, governing body, or a member acting in official capacity is, or is likely to become, a party.
- Public knowledge regarding discussion likely to result in an adverse legal or financial consequence to the agency.
- Legal counsel representing the agency is present. This executive session is not permitted just because legal counsel is present.



Public Comment

- ▶ Effective 6/9/22, governing body must provide an opportunity for public comment at or before every regular meeting at which final action is taken (not special meetings)
- ▶ Must allow public to comment orally at the meeting, or by written comment before the meeting
 - ▶ Agency can limit comments to written comments
 - ▶ Agency can put limitations on time available or how public comment is accepted

Penalties for Violating the OPMA

- A court can impose a \$500 civil penalty against each member (personal liability) who knowingly attends a meeting in violation of OPMA; and \$1000 for a subsequent knowing violation.
- Court will award costs and attorney fees to a successful party seeking the remedy.
- Action taken at meeting can be declared null and void.



Minutes

- Minutes of public meetings must be promptly recorded and open to public inspection.
- Minutes of an executive session are not required.
- No format specified in law.



Risk Management Tips



- Establish a culture of compliance with the OPMA.
- Receive training on the OPMA.
- Review available resources; institute best practices.
- Keep updated on current developments in OPMA; correctly apply law.
 - *Remember: the OPMA can change through amendments, or develop through case law.*
 - *Remember: other laws can govern an agency's meeting procedures.*
- Consult with agency's legal counsel.

OPMA Training

- The “Open Government Trainings Act” requires OPMA training for every member of a governing body within 90 days of taking their oath or assuming their duties. Refresher training occurs no later than every 4 years.
- Training can be taken online, in person, or by other means.
- Training resources, videos, and more information about the Act (a “Q & A”) are available on the Attorney General’s Office Open Government Training Web Page:
<http://www.atg.wa.gov/OpenGovernmentTraining.aspx>



MRSC OPMA Resources

Municipal Research & Services Center – Another Resource

OPMA – AGENCY OBLIGATIONS: A STARTING POINT

PRACTICE TIPS
For Local Government Success

The basic requirement of the Open Public Meetings Act (OPMA) is that meetings of governing bodies be open and public. Use these practice tips to guide your agency's OPMA compliance.* For more information and resources visit www.mrsc.org/opmapra.

Basic Requirements

- All meetings open and public. All meetings of governing bodies of public agencies must be open to the public, except for certain exceptions outlined in the OPMA. RCW 42.30.030.
- Quorum. Generally, a meeting occurs when a quorum (majority) of the governing body is in attendance and action is taken, which includes discussion or deliberation as well as voting. RCW 42.30.020(2) & (3).
- Attendees. All persons must be permitted to attend and attendees cannot be required to register their names or other information as a condition of attendance. Disruptive and disorderly attendees may be removed. RCW 42.30.040 & .050.
- No secret ballots. Votes may not be taken by secret ballot. RCW 42.30.060(2).
- Adoption of ordinances. Ordinances, resolutions, rules, regulations, and orders must be adopted at a public meeting or they are invalid. RCW 42.30.060(1).

Position in Agency	Required to Comply
Member of a governing body <ul style="list-style-type: none"> City or Town Councilmember or Mayor County Commissioner or County Councilmember Special Purpose District Commissioner/Board Member 	Yes
Member of a subagency created by ordinance or legislative act, e.g.: <ul style="list-style-type: none"> Planning Commission Library Board Parks Board Civil Service Commission 	Yes
Member of a committee <ul style="list-style-type: none"> Committees that act on behalf of the governing body, conduct hearings, or take testimony or public comment 	Yes
Agency staff	No

Penalties for Noncompliance

- Actions null and void. Any action taken at a meeting which fails to comply with the provisions of the OPMA is null and void. RCW 42.30.080(1).
- Personal liability. Potential personal liability of \$100 for any member of a governing body who attends a meeting knowing that it violates the OPMA. RCW 42.30.120(1).
- Agency liability. Any person who prevails against an agency in any action in the courts for a violation of the OPMA will be awarded all costs, including attorney fees, incurred in connection with such legal action. RCW 42.30.120(2).

OPMA Training Requirements, Effective July 1, 2014

- Every member of a governing body of a public agency must complete training requirements on the OPMA within 90 days of assuming office or taking the oath of office.
- In addition, every member of a governing body must complete training at intervals of no more than four years as long as they remain in office.

*DISCLAIMER: These practice tips are meant to provide summary information on basic agency obligations of the OPMA; the practice tips are not intended to be regarded as specific legal advice. Consult with your agency's legal counsel about this topic as well. May 2014

OPMA – NOTICE REQUIREMENTS

PRACTICE TIPS
For Local Government Success

Under the Open Public Meetings Act (OPMA), to ensure that agency deliberations and other actions are conducted and taken openly, agencies are required to provide sufficient public notice of their meetings. Use these practice tips as a starting guide for OPMA notice requirements.* For more information and resources visit www.mrsc.org/opmapra.

	Regular Meetings [RCW 42.30.070]	Special Meetings [RCW 42.30.080]
Definition	Held in accordance with a schedule fixed by ordinance, resolution, bylaws, or other rule.	Anything other than a regular meeting. May be called by the presiding officer or a majority of the members of the governing body.
Notice and Agenda	Effective June 12, 2004, agendas must be made available on the agency's website at least 24 hours in advance of the meeting unless the agency: <ol style="list-style-type: none"> Doesn't have a website; or Employs fewer than 10 full-time equivalent employees. There are no other notice requirements for regular meetings in the OPMA. However, other relevant laws apply to some local governments. For example, cities and towns are required to establish a procedure for notifying the public of the preliminary agenda for the forthcoming council meeting (although not necessarily online) as well as regarding upcoming hearings. RCW 35A.12.160; RCW 35.22.280; RCW 35.23.221; RCW 35.27.300. There are no similar requirements for counties or special purpose districts related to preliminary agendas.	The special meeting notice must specify the date, time, and place of the special meeting, and the business to be transacted. <ul style="list-style-type: none"> Personal notice. Written notice must be delivered personally, by mail, fax, or e-mail at least 24 hours before the meeting to: <ol style="list-style-type: none"> Each member of the governing body unless the member submits a written waiver of notice in advance with the clerk, or the member is actually present at the meeting; and Each member of the news media who has on file with the governing body a written request for notice of special meetings. Website notice. Notice must be posted on the agency's website 24 hours in advance of the meeting unless the agency: <ol style="list-style-type: none"> Doesn't have a website; or Employs less than 10 full-time equivalent employees; or Doesn't employ personnel whose duty as defined by a job description or existing contract, is to maintain or update the website. Notice at agency's principal location. Notice must be prominently displayed at the main entrance of the agency's principal location and the meeting site if the meeting isn't held at the agency's principal location.
Emergencies	In an emergency situation (e.g., fire, flood, earthquake, or other emergency), a meeting may be held at a site other than the regular meeting site, and the notice requirements under the OPMA are suspended during such an emergency.	The notices required for special meetings aren't required if a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.
Holidays	Regular meetings shall not be held on holidays. If a regular meeting falls on a holiday, the meeting must be held on the next business day.	Although not specifically addressed by the OPMA, we recommend that special meetings not be held on holidays out of consideration for public participation.
Business Transacted	There are no restrictions on the type of business that may be transacted at regular meetings.	Final disposition cannot be taken on any matter not listed in the special meeting notice.

*DISCLAIMER: These practice tips are meant to provide summary information on the notice requirements of the OPMA; these tips are not intended to be regarded as specific legal advice. Consult with your agency's legal counsel about this topic as well. May 2014

OPMA – EXECUTIVE SESSIONS

CHECKLIST
For Local Government Success

The Open Public Meetings Act (OPMA) requires specific steps be taken in order to hold an executive session. Use this checklist to guide your agency's compliance with the OPMA related to executive sessions.* For more information and resources visit www.mrsc.org/opmapra.

	Requirement	Completed/ Applicable
Meeting	An executive session can only be held as part of a regular or special meeting.	<input type="checkbox"/>
Purpose	The presiding officer announces in open session the purpose of the executive session.	<input type="checkbox"/>
End Time	The presiding officer announces in open session the time the executive session will end.	<input type="checkbox"/>
Legal Counsel	Legal counsel is present during the executive session, if required. (See topics below end on the next page for discussions that require the presence of legal counsel.)	<input type="checkbox"/>
Confidentiality	At the start of the executive session, participants are reminded that discussions are confidential.	<input type="checkbox"/>
Topics	Related to local governments, the following topics set forth in RCW 42.30.110(1) can be discussed in executive session:	
	<ul style="list-style-type: none"> Matters affecting national security. RCW 42.30.110(1)(a). Lease or purchase of real estate if there's a likelihood that disclosure would increase the price. RCW 42.30.110(1)(b). Consideration of the minimum offering price for sale or lease of real estate if there's a likelihood that disclosure would decrease the price. RCW 42.30.110(1)(c). <ul style="list-style-type: none"> Note: First action setting or leasing public property must be taken in open session. Negotiations on the performance of a publicly bid contract. RCW 42.30.110(1)(d). See back of page. Complaints or charges brought against a public officer or employee. RCW 42.30.110(1)(e). <ul style="list-style-type: none"> Note: At accuser's request, discussion must be in open session. Qualifications of an applicant for public employment. RCW 42.30.110(1)(g). See back of page. Performance of a public employee. RCW 42.30.110(1)(i). See back of page. Qualifications of an applicant/candidate for appointment to elective office. RCW 42.30.110(1)(n). See back of page. Agency enforcement actions. RCW 42.30.110(1)(j). See back of page. <ul style="list-style-type: none"> Note: Requires presence of legal counsel. Current or potential litigation. RCW 42.30.110(1)(k). See back of page. <ul style="list-style-type: none"> Note: Requires presence of legal counsel. Legal risks of current or proposed action. RCW 42.30.110(1)(l). See back of page. 	
Indefinite Time	If the executive session is not completed by the originally announced end time, the presiding officer announces the extended end time in open session before returning to executive session.	<input type="checkbox"/>
Adjourn	Open session is not resumed until after the announced end time.	<input type="checkbox"/>
Date	Form Completed By _____	
Signature	_____	

*This checklist is meant to provide summary information on executive sessions; the checklist is not intended to be regarded as specific legal advice. Consult with your agency's attorney about this topic as well. May 2014



Review of the training requirements/Attestation – CDE Program Team

Break

Rate setting overview

- Rate Setting Board overview – CDE Unit Manager
- Process for exploration and deliberation – Facilitator
- Collective bargaining/Rate setting – Facilitator

Who Are You? (Rate Setting Board)

The Consumer Directed Employer (CDE) rate setting board (RSB) is a 14-person board which exists to evaluate and propose the rate to be paid to the CDE and can make a recommendation regarding the administrative vendor rate for home care agencies.

The board consists of:

- 4 voting members
- 9 non-voting advisory members
- 1 chairperson (casts tie-breaking vote)

Why/How RSB was Established?

[RCW 74.39A.500-530](#) came into statute in 2018. It established the Consumer Directed Employer (CDE) program in Washington state.

The program provides personal care, respite care, and similar services to individuals with functional impairments under programs authorized through the Medicaid state plan or Medicaid waiver authorities and similar state-funded in-home care programs.

The Rate Setting Board (RSB) is one of the program components required under the statute.

Rate Setting Process

- RSB examine member proposals without bargaining IP pay or benefits.
- All members provide input then voting members cast vote on proposed rate.
- If 4 voting members are split on decision after July 1, the Chairperson serves as tiebreaker.
- Rate submitted to legislature for yes/no funding decision.
- Collective bargaining on pay/benefits occurs between union and CDE.
- CDE implements changes.

Board Member Roles & Responsibilities

1. Regularly and consistently attend the board meetings.
2. Comply with the Open Public Meetings Act (OPMA) requirements, including completing required trainings.
3. Review materials prior to each meeting and come prepared for discussion.
4. Collaboratively discuss the materials.
5. Ask questions or request more information.

What You Should Plan for as a Board Member

1. Time to review materials in advance.
2. Be thoroughly familiar with the materials your organization will be presenting.
3. Plan for time between meetings to follow up on action items, solicit feedback, and get answers to questions within your organization.
4. Seek out expert input and advice as needed.
5. Be prepared to bring questions and responses back to the board.

What to Expect from the Chair

1. Acts as the Board's formal spokesperson.
2. Presides over the Board meetings:
 - Opens and closes the meetings.
 - States the purpose and reviews the timeline.
 - Reviews the meeting agenda.
 - Gets approval of meeting minutes.
 - Calls for votes.

What to Expect from the Chair (con't)

4. Oversees the voting process.
5. Casts a tie-breaking vote if the voting members fail to reach agreement on the labor rate prior to July 1.
6. Supports members of the Board.
7. Participates in planning and meeting debriefs as necessary.

What to Expect from the RSB Staff

1. Publish agendas.
2. Coordinate with facilitator.
3. Follow up on action items and questions between meetings.
4. Posting materials and notes on RSB website.
5. Monitor the CDERateSettingBoard@dshs.wa.gov inbox.

Who is on the RSB?

Name	Position
Cynthia Hollimon	*Governor's Office Representative
Bea Rector	DSHS Representative
Ben Bledsoe	CDE Representative
Adam Glickman	Exclusive Bargaining Unit Designee
Representative Kelly Chambers	House of Representatives (R)
Representative Steve Tharinger	House of Representatives (D)
Senator Ron Muzzall	Senate (R)
Senator Annette Cleveland	Senate (D)
Georgiann Dustin	*State Council on Aging Representative
Open	*People with Intellectual or Developmental Disabilities Organization
Open	*People with Disabilities Organization
Eric Erickson	Licensed Home Care Agency
Nellie Prieto	Home Care Worker

**Governor appointed positions*

Additional Resources

RCW <https://app.leg.wa.gov/RCW/default.aspx?cite=74.39A.500>

Websites

- Rate Setting Board page:
<https://manuals.dshs.wa.gov/altsa/stakeholders/consumer-directed-employer-rate-setting-board>
- Boards and Commissions page:
<https://www.governor.wa.gov/boards-commissions/board-and-commissions/profile/Consumer%20Directed%20Employer%20Rate%20Setting%20Board>

Consumer Directed Employer Rate Setting Board

RCW 74.39A.530 established the Consumer Directed Employer (CDE) rate setting process with the purpose of proposing the CDE vendor rate which consist of an administrative and IP labor components. The legislation established a 14-person board to evaluate and propose the rate to be paid to the CDE. The rate setting board (RSB) meets every even-numbered year.

For more information about the CDE please go to CDE website

Date & Time	Location	Materials
March 21, 2022 9:00am - 12:00pm	Virtual Meeting Join with Zoom https://dshs-telehealth.zoom.us/j/86587690578?pwd=LzVoSXRISXZ2dEVYMDplcHVpcjI0dz09 Meeting ID: 865 8769 0578	

Transforming
Lives

Questions?

Board Chair review

- RSB Chair candidate review – All
- Board discussion

Lunch

Voting and membership

- Overview of Voting Process and Membership – All
- Vote of Chair

Board groundwork – All

- Bylaws review, discuss and update
- Vote on bylaws
- Charter review, discuss and update
- Vote on Charter
- Policies & procedures review, discuss and update
- Vote on P&Ps

Public comment Facilitator

Adjourn