

2021 -- H 5887

LC001889

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- OPEN MEETINGS

Introduced By: Representatives Fogarty, McEntee, Caldwell, Craven, Tanzi, Carson,  
Amore, McGaw, C Lima, and Kennedy

Date Introduced: February 24, 2021

Referred To: House State Government & Elections

(University of Rhode Island)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-46-5 of the General Laws in Chapter 42-46 entitled "Open  
2 Meetings" is hereby amended to read as follows:

3 **42-46-5. Purposes for which meeting may be closed -- Use of electronic**  
4 **communications -- Judicial proceedings -- Disruptive conduct.**

5 (a) A public body may hold a meeting closed to the public pursuant to § 42-46-4 for one  
6 or more of the following purposes:

7 (1) Any discussions of the job performance, character, or physical or mental health of a  
8 person or persons provided that such person or persons affected shall have been notified in advance  
9 in writing and advised that they may require that the discussion be held at an open meeting.

10 Failure to provide such notification shall render any action taken against the person or  
11 persons affected null and void. Before going into a closed meeting pursuant to this subsection, the  
12 public body shall state for the record that any persons to be discussed have been so notified and  
13 this statement shall be noted in the minutes of the meeting.

14 (2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to  
15 collective bargaining or litigation.

16 (3) Discussion regarding the matter of security including, but not limited to, the deployment  
17 of security personnel or devices.

18 (4) Any investigative proceedings regarding allegations of misconduct, either civil or  
19 criminal.

1 (5) Any discussions or considerations related to the acquisition or lease of real property for  
2 public purposes, or of the disposition of publicly held property wherein advanced public  
3 information would be detrimental to the interest of the public.

4 (6) Any discussions related to or concerning a prospective business or industry locating in  
5 the state of Rhode Island when an open meeting would have a detrimental effect on the interest of  
6 the public.

7 (7) A matter related to the question of the investment of public funds where the premature  
8 disclosure would adversely affect the public interest. Public funds shall include any investment  
9 plan or matter related thereto, including, but not limited to, state lottery plans for new promotions.

10 (8) Any executive sessions of a local school committee exclusively for the purposes: (i) of  
11 conducting student disciplinary hearings; or (ii) of reviewing other matters which relate to the  
12 privacy of students and their records, including all hearings of the various juvenile hearing boards  
13 of any municipality; provided, however, that any affected student shall have been notified in  
14 advance in writing and advised that he or she may require that the discussion be held in an open  
15 meeting.

16 Failure to provide such notification shall render any action taken against the student or  
17 students affected null and void. Before going into a closed meeting pursuant to this subsection, the  
18 public body shall state for the record that any students to be discussed have been so notified and  
19 this statement shall be noted in the minutes of the meeting.

20 (9) Any hearings on, or discussions of, a grievance filed pursuant to a collective bargaining  
21 agreement.

22 (10) Any discussion of the personal finances of a prospective donor to a library.

23 (b) No meeting of members of a public body or use of electronic communication, including  
24 telephonic communication and telephone conferencing, shall be used to circumvent the spirit or  
25 requirements of this chapter; provided, however, these meetings and discussions are not prohibited.

26 (1) Provided, further however, that discussions of a public body via electronic  
27 communication, including telephonic communication and telephone conferencing, shall be  
28 permitted only to schedule a meeting, [except as provided in this subsection](#).

29 (2) Provided, further however, that a member of a public body may participate by use of  
30 electronic communication or telephone communication while on active duty in the armed services  
31 of the United States.

32 (3) Provided, further however, that a member of that public body, who has a disability as  
33 defined in chapter 87 of title 42 and:

34 (i) Cannot attend meetings of that public body solely by reason of his or her disability; and

1 (ii) Cannot otherwise participate in the meeting without the use of electronic  
2 communication or telephone communication as reasonable accommodation, may participate by use  
3 of electronic communication or telephone communication in accordance with the process below.

4 (4) The governor's commission on disabilities is authorized and directed to:

5 (i) Establish rules and regulations for determining whether a member of a public body is  
6 not otherwise able to participate in meetings of that public body without the use of electronic  
7 communication or telephone communication as a reasonable accommodation due to that member's  
8 disability;

9 (ii) Grant a waiver that allows a member to participate by electronic communication or  
10 telephone communication only if the member's disability would prevent him/her from being  
11 physically present at the meeting location, and the use of such communication is the only  
12 reasonable accommodation; and

13 (iii) Any waiver decisions shall be a matter of public record.

14 (5) The university of Rhode Island board of trustees members, established pursuant to §  
15 16-32-2, are authorized to participate remotely in open public meetings of the board if they are  
16 unable to be physically present at the meeting location; provided, however, that:

17 (i) The remote members and all persons present at the meeting location are clearly audible  
18 and visible to each other;

19 (ii) A quorum of the body is physically present at the noticed meeting location;

20 (iii) If videoconferencing is used to conduct a meeting, the public notice for the meeting  
21 shall inform the public that videoconferencing will be used and include instructions on how the  
22 public can access the virtual meeting; and

23 (iv) The board shall adopt rules defining the requirements of remote participation including  
24 its use for executive session, and the conditions by which a member is authorized to participate  
25 remotely.

26 (c) This chapter shall not apply to proceedings of the judicial branch of state government  
27 or probate court or municipal court proceedings in any city or town.

28 (d) This chapter shall not prohibit the removal of any person who willfully disrupts a  
29 meeting to the extent that orderly conduct of the meeting is seriously compromised.

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31 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO STATE AFFAIRS AND GOVERNMENT -- OPEN MEETINGS

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1           This act would authorize members of the University of Rhode Island Board of Trustees to  
2 participate remotely in open public meetings if they are unable to be physically present.

3           This act would take effect upon passage.

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