

**MISSISSIPPI DEPARTMENT of EMPLOYMENT SECURITY**  
**State Policy Number 4**  
**SUNSHINE PROVISION POLICY**  
**Workforce Innovation and Opportunity Act (WIOA)**

**I. SCOPE AND PURPOSE**

This policy sets forth the requirements to conduct business in an open manner as mandated by the Workforce Innovation and Opportunity Act (WIOA). Conducting business in an open manner involves making the activities of the State Workforce Development Board (SWDB) and the Local Workforce Development Boards (LWDB) available to the public (including individuals with disabilities) on a regular basis via electronic means and open meetings.

**II. STATUTES GOVERNING SUNSHINE PROVISIONS AND APPLICABLE ACTS**

**A. Federal Requirements**

The legislation outlining the Sunshine Provision under WIOA, as prescribed for the SWDB, is found in *Workforce Innovation and Opportunity Act, 113 P.L. 128, Section 101(g)*.

“Sunshine Provision. – The State board shall make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the State board, including information regarding the State plan, or a modification to the State plan, prior to submission of the plan or modification of the plan, respectively, information regarding membership, and, on request, minutes of formal meetings of the State board.”

The legislation outlining the Sunshine Provision under WIOA, as prescribed for the LWDBs, is found in *Workforce Innovation and Opportunity Act, 113 P.L. 128, , Section 107(e)*.

“Sunshine Provision. – The local board shall make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the local board, including information regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of

youth workforce investment activities, and on request, minutes of formal meetings of the local board.”

The laws governing open meeting accessibility for the disabled are found at *Title III of the Americans with Disabilities Act (ADA)*, 42 USC § 12181 et seq. More specifically, the relevant sections, **28 CFR § 36.201(a) (2010)**, **28 CFR § 36.104 (2010)**, **28 CFR § 36.303(a) (2010)**, **28 C.F.R. § 36.104 (2010)**[*U.S. Department of Justice Regulation to Title III of the Americans with Disabilities Act*, 56 Fed. Reg. 35544 (July 26, 1991)] are as follows:

“No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation.” **28 CFR § 36.201(a) (2010)**

“Public accommodation means a private entity that owns, leases [or leases to], or operates a place of public accommodation.” **28 CFR § 36.104 (2010)**

“A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.” **28 CFR § 36.303(a) (2010)**

“Qualified interpreter means an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.” **28 C.F.R. § 36.104 (2010)**

## **B. State Requirements**

The policies of the SWDB and individual LWDBs must also include State requirements as prescribed in Mississippi’s Open Meetings Acts, ***Title 25, Chapter 41, Mississippi Code of 1972*** and in Mississippi’s Public Records Act, ***Title 25, Chapter 61, Mississippi Code of 1972***. These acts collectively govern public bodies, state and local, that hold meetings on public matters, and ensure the public’s right to access public records. The Mississippi Ethics Commission is given authority to hold hearings, take complaints, issue subpoenas, hold hearings and issue orders subsequent to alleged violations of the Open Meetings Act and the Public Records Act.

1. **State Law- The Open Meetings Act**

**Miss. Code Ann. § 25-41-3(a)**, defines a “public body” as any executive or administrative board, commission, authority, council, department, agency, bureau or any other policy making entity, or committee thereof, of the State of Mississippi, or any political subdivision or municipal corporation of the state, whether such entity be created by statute or executive order, which is supported wholly or in part by public funds or expends public funds, and any standing, interim or special committee of the Mississippi Legislature.

**Miss. Code Ann. § 25-41-5**, outlines official meetings of public bodies specifically as follows:

“(1) All official meetings of any public body, unless otherwise provided in this chapter or in the Constitutions of the United States of America or the State of Mississippi, are declared to be public meetings and shall be open to the public at all times unless declared an executive session as provided in Section 25-41-7.

(2) A public body may conduct any meeting through teleconference or video means. A quorum of a public body as prescribed by law may be at different locations for the purpose of conducting a meeting through teleconference or video means provided participation is available to the general public at one or more public locations specified in the public meeting notice.

(3)(a) Notice of any meetings held pursuant to subsection (2) of this section shall be provided at least five (5) days in advance of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify all locations for the meeting available to the general public. All persons attending the meeting at any of the public meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Any interruption in the teleconference or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

(b) Five-day notice shall not be required for teleconference or video meetings continued to address an emergency as provided in subsection (5) of this section or to conclude the agenda of a teleconference or video meeting of the public body for which the proper notice has been

given, when the date, time, place and purpose of the continued meeting are set during the meeting prior to adjournment.

(4) An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by teleconference or video means shall be recorded as required by Section 25-41-11. Votes taken during any meeting conducted through teleconference or video means shall be recorded by name in roll-call fashion and included in the minutes. In addition, the public body shall make an audio recording of the meeting, if a teleconference medium is used, or an audio/visual recording, if the meeting is held by video means. The recording shall be preserved by the public body for a period of three (3) years following the date of the meeting and shall be available to the public.

(5) A public body may meet by teleconference or video means as often as needed if an emergency exists and the public body is unable to meet in regular session. Public bodies conducting emergency meetings through teleconference or video means shall comply with the provisions of subsection (4) of this section requiring minutes, recordation and preservation of the audio or audio/visual recording of the meeting. The nature of the emergency shall be stated in the minutes.”

**Miss. Code Ann. § 25-41-9**, states that the public body convening the meeting may make and enforce rules and regulations pertaining to the conduct of attendees.

**Miss. Code Ann. § 25-41-11**, sets parameters defining minutes and their recording as follows:

“(1) Minutes shall be kept of all meetings of a public body, whether in open or executive session, showing the members present and absent; the date, time and place of the meeting; an accurate recording of any final actions taken at such meeting; and a record, by individual member, of any votes taken; and any other information that the public body requests be included or reflected in the minutes. The minutes shall be recorded within a reasonable time not to exceed thirty (30) days after recess or adjournment and shall be open to public inspection during regular business hours.

(2) Minutes of a meeting conducted by teleconference or video means shall comply with the requirements of Section 25-41-5.

(3) Minutes of legislative committee meetings shall consist of a written record of attendance and final actions taken at such meetings.”

**Miss. Code Ann. § 25-41-13**, states that notice of public meetings will contain the place, date, hour and subject matter, but if a public body has regularly scheduled meetings at certain times and places mandated by statute, then no additional notice is required unless a meeting is recessed, or adjourned. In the case that there is an interim meeting or special meeting called, notice must be posted, in a publicly accessible place, preferably in the building in which the meeting will be held, within one (1) hour of the start of the meeting. This notice must be included in the minutes or other records of the public body. This section also prescribes that public bodies without statutory provisions in place detailing times and places of meetings must detail in the minutes the upcoming times, places and procedure by which its meetings will be held.

## **2. State Law- The Public Records Act**

**Miss. Code Ann. § 25-61-2**, defines the public records policy of the State of Mississippi as allowing the public, unless otherwise specified, access to all non-classified public records. The responsibility of providing access to these records is a duty of each public body. No person, due to automation, shall be denied access to public records. With an increase in technological use and advances, public bodies must provide reasonable access to electronically maintained records, subject to retention policies.

## **III. PROPOSED POLICY REQUIREMENTS**

In order to comply with WIOA’s transparency mandates to conduct business in an open manner and make activities of the board available to the public and to garner public trust, the SWDB and each LWDB shall have a sunshine provision policy which, at a minimum, meets the requirements shown below:

1. A written code of standards or conduct governing the procedural direction of all meetings held by or relating to SWDB and LWDBs as prescribed by WIOA.
  - a. Specifically that these meetings shall be conducted on a regular basis and as open meetings.

- b. Direction of meetings will specifically address the activities of the SWDB and LWDBs in relation to State and local plan activities and modifications. These activities must be addressed, in open meetings, prior to the submission of the plan or modification of the plan, respectively.
2. The SWDB and each LWDB shall establish written protocols defining the collection of meeting minutes, whether held in person, via teleconference or video, or any combination of the aforementioned.
  - a. Parameters for storage of these minutes, must also be cited, identified and maintained in a publicly accessible place, preferably in an online format.
  - b. Notation of and information regarding all members of SWDB and each LWDB must be identified and made available and easily accessed by the public.
  - c. Priority must be given to public accessibility.
  - d. All information must also be ADA compliant.
3. Each LWDB shall publicly identify the designation and certification of one-stop operators for the public, accessible at all times.
4. Each LWDB shall publicly provide all information regarding the award of grants or contracts to eligible providers of youth workforce investment activities.
5. The SWDB and each LWDB shall have the ability to provide minutes of formal meetings upon request. All requests for information in braille must be made two weeks in advance to meet the production requirements of the information.
6. No meeting shall be held by either the SWDB or any LWDB in a closed capacity, or in any way deny access to the public. This includes making reasonable accommodations for the disabled as outlined in the ADA requirements outlined in this document.
7. The officers, employees, agents, and members of the SWDB and LWDBs will make every effort to comply with the transparency requirements as defined by WIOA with the intent of establishing trust among all individuals, agencies and entities involved in the State of Mississippi's workforce development system.

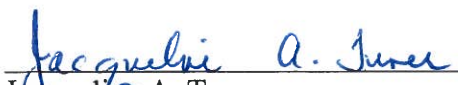
8. The code of conduct shall contain penalties, sanctions, or other disciplinary actions in accordance with state and local law for violations of the provisions against open meetings and the public information.

#### **IV. REQUIRED ACTION**

- A. The SWDB or LWDB must develop a sunshine provision policy that incorporates this State Policy Number 4. The SWDB or LWDB policy may be more proscriptive, at the discretion of the board. In either case, the policy and the background information should be reviewed regularly with state and local boards, and all boards should include this guidance in orientations for new board members.
- B. The State shall include in its monitoring of local areas a review of local adherence to the requirements described in this guidance.
- C. The State shall verify and ensure SWDB adherence to the requirements described in this guidance.

#### **V. EFFECTIVE DATE**

This policy shall be effective as of July 1, 2015.

  
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