

What Is a Public Hearing, and How Does It Differ from a Public Meeting?

[MRSC - Public Hearings](#)

Public meetings are governed by the procedures of the [Open Public Meetings Act](#) and generally occur whenever a quorum of a governing body meets and deals with the business of that body. The purpose of the act is to provide transparency to the decision-making process of the body. Although the public is often allowed to participate in public meetings, only public comment at or before a regular meeting at which final action is taken is required by state law ([RCW 42.30.240](#)).

A public hearing, on the other hand, is primarily intended to obtain public testimony or comment before significant decisions are made. A public hearing can occur as part of a regular or special public meeting or, in some circumstances, can be entirely separate from a public meeting. A public hearing is obligatory when due process is required, or when a specific statute or local regulation requires one. A local government may also hold a public hearing when it desires public input on a sensitive or controversial policy issue.

For a list of the city, town, and county statutes that require public hearings, see our publication [Local Ordinances for Washington Cities and Counties](#) (Appendix C, Actions for Which a Public Hearing is Required).

Types of Public Hearings

There are two types of public hearings, legislative and quasi-judicial, and it is important to understand the distinction between them.

Legislative Public Hearings

The purpose of a legislative public hearing is to obtain public input on important legislative policy matters that affect a wide range of citizens, such as comprehensive land use plans or the annual budget. Since legislative acts do not trigger constitutional due process rights, legislative public hearings are generally subject to fewer procedural requirements than quasi-judicial public hearings are.

The wisdom of legislative decisions, including those made after public hearings, is generally not second-guessed by the courts. Instead, courts simply assess whether the legislative body had the authority to act in the way that it did, and whether such action was arbitrary and capricious.

Quasi-Judicial Public Hearings

Whereas legislative hearings generally affect a large segment of the public, quasi-judicial hearings involve the legal rights of specific, identifiable parties, such as consideration of land-use variances or permits, and site-specific rezones. Quasi-judicial hearings require due process for the parties involved, so such hearings tend to have stricter procedural requirements than legislative hearings.

The decisions made as a result of quasi-judicial hearings should be, and in some circumstances must be, based upon and supported by the “record” developed at the hearing.

What Procedural Requirements Apply to Public Hearings?

State statutes do not specify how public hearings, whether legislative or quasi-judicial, should be conducted. However, the procedural requirements will vary depending on whether it is a legislative public hearing or a quasi-judicial public hearing.

Quasi-Judicial Public Hearing Procedural Requirements

Since due process protections apply to quasi-judicial matters, the requirements for quasi-judicial public hearings are much stricter in a variety of ways and have been outlined below.

Notice Requirement

Due process requires that government entities give proper notice to an individual before making any decision that would impede upon that individual’s rights or property interest. In the context of quasi-judicial hearings, the purpose of this notice is to alert those who may be affected by the proposed action and inform them of its nature so as to allow them the time and opportunity to prepare for and attend the public hearing. If the hearing is being held in accordance with a statute, then the statute may specify the particular timing and manner of notice required. Where the statute does not specify, then the timing and method of providing notice should seek to ensure that the underlying purpose of notice is reasonably fulfilled.

Appearance of Fairness

In quasi-judicial hearings, a decision-maker is not permitted to prejudge or have biases regarding a matter. Communications between parties to the hearing and members of the decision-making body are prohibited outside the context of the public hearing. For more information, see our page on the [Appearance of Fairness Doctrine](#).

Decisions Based on the Record

The “record” consists of all testimony or comment presented at the hearing and all documents or exhibits that have been submitted in connection with the matter being considered, including written public comments received in advance. The decision-maker in quasi-judicial hearings should only base a decision on facts and evidence in the record, as a court or other reviewing body generally cannot consider any facts or evidence that are not in the record. Any public body preparing to hold a quasi-judicial hearing should develop a thorough procedure and set of rules for creating a record that preserves all testimony, documents, and any other evidence presented at the hearing in case the decision is appealed.

Deliberations

Deliberations on a quasi-judicial matter can occur in a closed session following the public hearing or at some other time, depending on the mandates of the statute. If the matter is complex, it may be best to postpone deliberations until members of the decision-making body have had time to review the exhibits and perhaps listen again to some or all of the recorded testimony.

MRSC developed a [Public Hearing Script Guide](#) for quasi-judicial hearings that local governments might find helpful.

Legislative Public Hearings Procedural Requirements

Because legislative hearings are generally informal, the main concern is to provide an opportunity for all attending members of the public to speak if they so desire. Time limits can be placed on individual comments if many people intend to testify. Public comments should be confined to the matter at hand. Written comments may also be accepted at or before the hearing. Any such “ground rules” for the conduct of the hearing should be stated by the chairperson or presiding official at the beginning of the hearing.

Specific procedural requirements for legislative public hearings are less complicated than those for quasi-judicial public hearings.

Notice Requirements

For legislative hearings, the notice requirements generally depend upon the applicable statute, which may or may not set out specific requirements for the timing and manner of the notice. For public hearings that are considered public meetings under the [Open Public Meetings Act](#), the notice requirements of that statute must also be followed.

Appearance of Fairness Doctrine

Under [RCW 42.36.030](#), the appearance of fairness doctrine does not apply to legislative public hearings. It is expected that members of legislative bodies will often take a particular stance on issues, and that they will be lobbied by their constituents prior to any significant legislative action.

Other Considerations

State statutes do not specify how legislative public hearings should be conducted. However, the primary focus should be to provide an opportunity for all attending members of the public to speak if they so desire. Time limits can be placed on individual comments if many people intend to testify, and the public comments should be confined to the matter at hand. Written comments may also be accepted at or before the hearing. Any such “ground rules” for the conduct of the hearing should be stated by the chairperson or presiding official at the beginning of the hearing.