

What are the legal mandates and restrictions on how you interact with the public?

Key Questions to Ask about How to Engage the Public **QUESTION 13 OF 14**



Major Statutes Affecting Public Engagement

- Sunshine and Public Meetings Acts
- Freedom of Information Act
- Public participation requirements in agency statutes
- Administrative Procedure Act
- Negotiated Rulemaking Act
- Administrative or Government Dispute Resolution Act
- Uniform Mediation Act
- Uniform Arbitration Act

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Most of the laws that govern citizen participation are now decades old. Over that time, the relationship between citizens and governments has shifted, local officials have developed more intensive forms of public engagement, and a new generation of online tools has emerged. These changes have created some confusion about what “legal” citizen participation is supposed to look like.

On some kinds of decisions – such as bond issues, budgets and land use, local governments still follow a standard routine of public hearings, written notices and comment periods – even though these methods do not seem very effective at eliciting or structuring public engagement. Some local officials have experimented with ways of improving public hearings (see p. [x]). Others have stuck with the traditional formats, partly because they believe the laws on participation do not allow for such changes.

The laws, however, vary from place to place. They also vary in how they are interpreted; city attorneys, local officials and other legal experts often disagree on what the laws require. This uncertainty also affects newer forms of engagement, with officials and other leaders often asking whether their initiatives are compliant with the laws.

Online, many local officials and city employees are struggling with similar uncertainties. In fact, because the technologies are so new, officials tend to be even more concerned about the legalities of how they use the Internet. In most cases, they have more leeway than they realize, but without a clear sense of the law, they are more likely to withdraw than to communicate online with citizens.

MORE SPECIFIC QUESTIONS TO ASK ABOUT THE LEGAL FRAMEWORK:

- Have there been any recent controversies over the legal aspects of citizen participation?
- How does the city determine whether a particular engagement practice is compliant with the relevant laws?
- Who are the people you consult on these kinds of questions? Do you feel confident in the ability of your legal advisors to cover questions about participation?
- Have your public engagement policies been reviewed to include provisions for social media, online communication and transparency?

POTENTIAL NEXT STEPS:

- Begin a more thorough examination of your local legal framework for participation. What are the local, state and/or federal laws that govern participation in your city? How do they vary by issue or decision? (For example, laws on engagement in planning and land use decisions may be different from those on participation in budgeting decisions.)
- How are these laws being interpreted by city attorneys or legal experts in other cities?
- Conduct additional research on how laws are being interpreted in terms of online engagement.