

# Districts and the Open Meeting & Open Records Acts

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Oklahoma Conservation Commission

District Services

February 26, 2024

# Reminder

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ALL districts must adhere to the  
Open Meeting Act and Open Records Act.  
There are no exceptions.





# Open Meeting Act

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# When does a meeting occur?

When at least 3 directors  
are together

Monthly

A quorum of 3

Quorum of 3 or more

When a quorum of  
directors are together  
deciding district business

When there are 3  
directors together

If two or more directors  
are present

When 3 or more directors  
discuss district business

# When does a meeting occur?

When there are more than two board meeting present

Monthly

Monthly

When it has been filed with the court

A certain date of the month with three members

When a majority meet to discuss business

When 3 or more board directors gather

At least 3 present



## When does a meeting occur?

Quorum of 3 or more

3 or more

Monthly

When posted

Regular meetings occur once monthly.

Monthly, with quorum

Monthly

When 3 or more directors are present, it is considered a meeting.

## When does a meeting occur?

Monthly

Each month as long as  
there are 3 or more  
directors are present

When regular meetings  
scheduled

When you have a Corum  
of three or more directors  
are there

A quorum when  
discussing district  
business

No

Never

Never

# When does a meeting occur?

It depends

It depends

It depends

It depends

Never

When there is a quorum

3 att

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# When does a meeting occur?

Discuss but no voting

# When does a meeting occur?

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- A majority of the district's board members
- Conducting the business of the district

*\*You must file a meeting notice if the components of a meeting will be met*

*\*\*Informal gatherings are not a meeting if no business is discussed*



# Best Practice Tip!

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## **Avoid the perception of impropriety**

Make sure that there is no perception that district business is being conducted if a meeting has not been filed.

If a quorum of board members will be present at an event, they should not sit together, not be in conversation together with the absence of any outside individuals, etc.



# Can you revise the agenda if it has been posted?

0  
Yes!  
✗

9  
Never!  
✗

14  
It Depends...  
✓

# Can you revise the agenda if it has been posted?

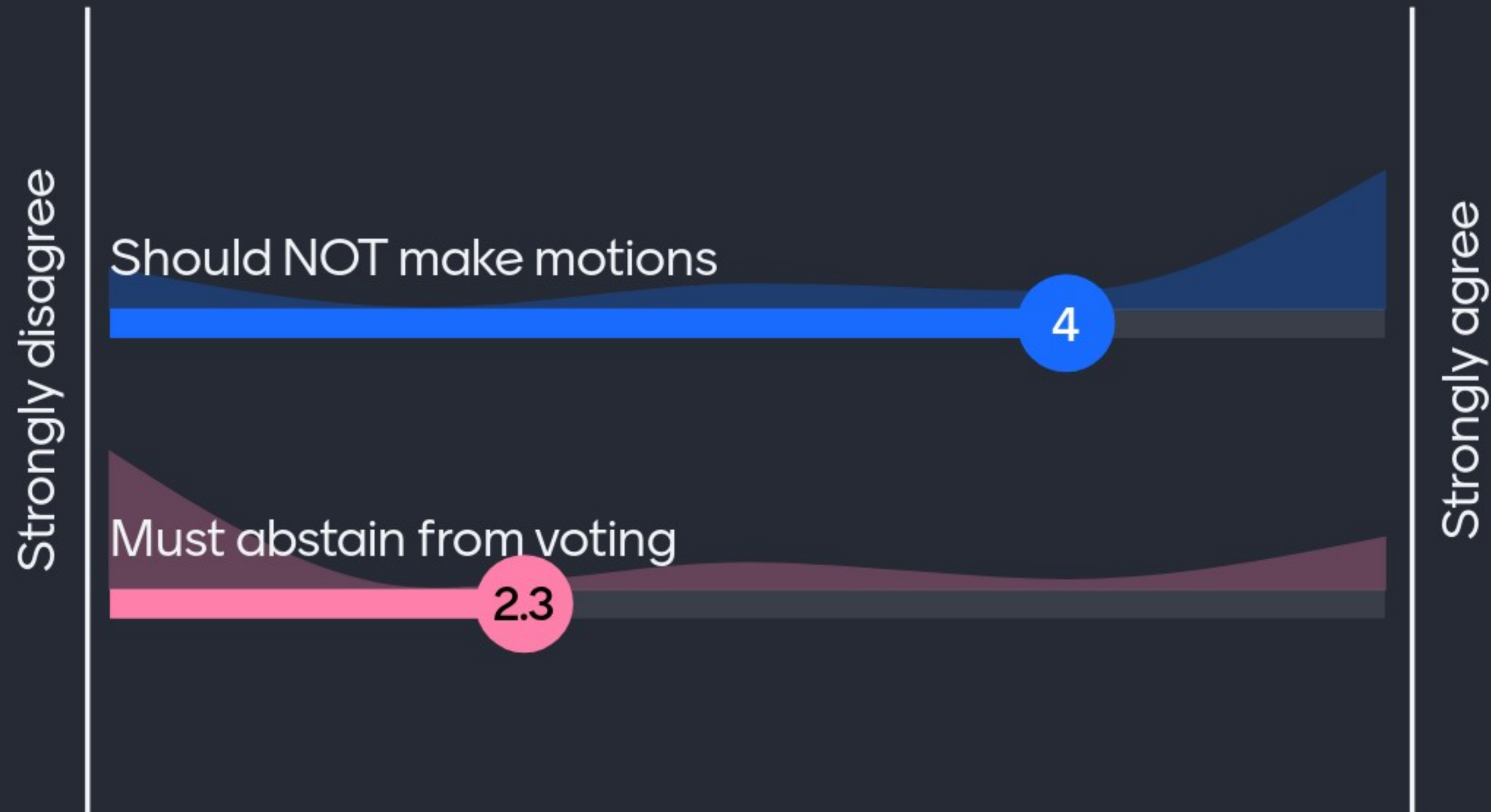
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Agendas must be posted no less than 24 hours prior to the meeting start date and time.

- More than 24 hours prior – the agenda can be revised
- Less than 24 hours prior – the agenda **CANNOT** be revised
- Posting requirements apply to online posting as well



# The Chair's role in a meeting





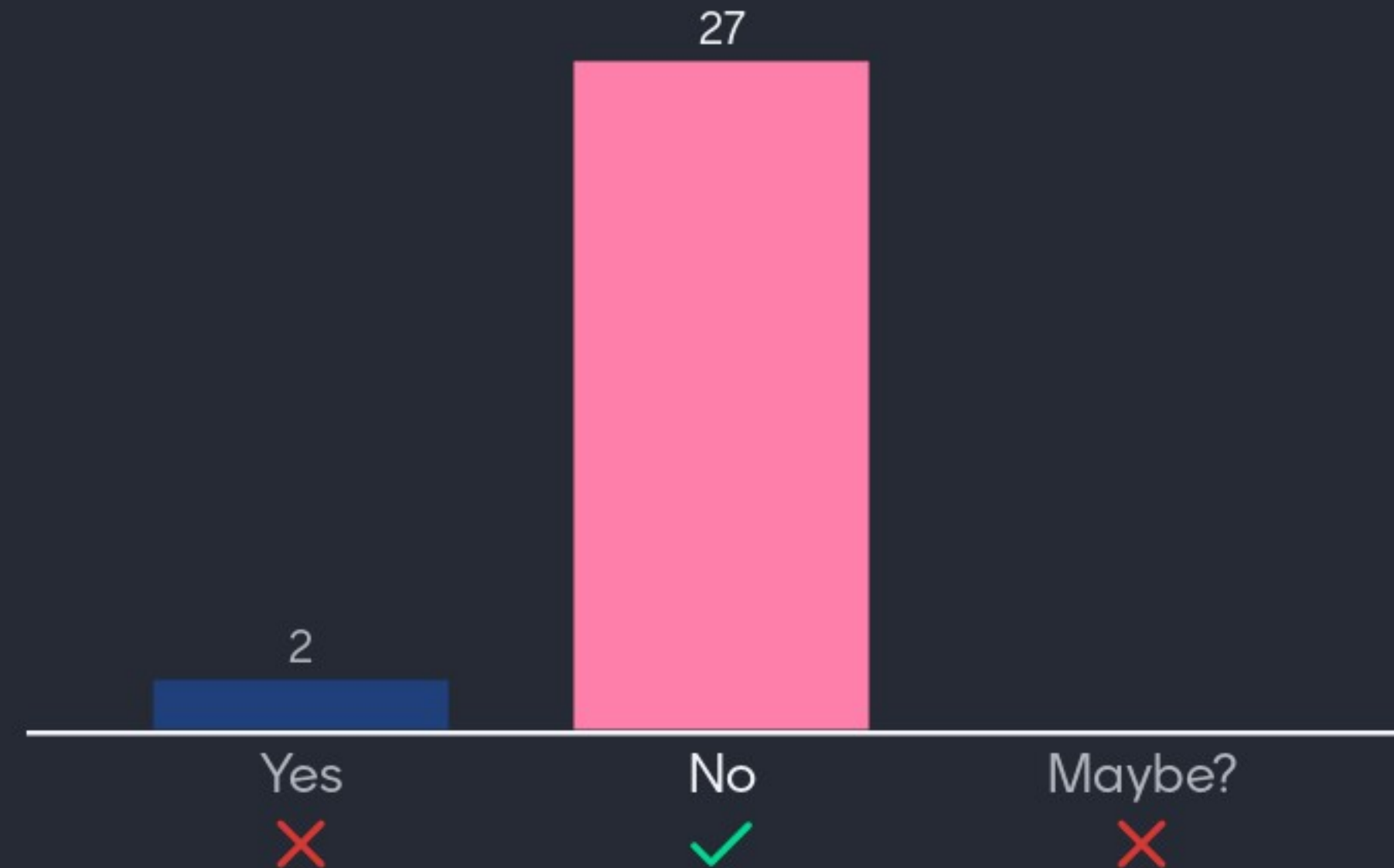
# What is the chair's role in a meeting?

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The chair is responsible for keeping the meeting moving.

- Should they make or second motions?
  - Best practice is no; however, they may invite motions
- Should they abstain from voting?
  - No, each board member in attendance should have a recorded vote on each item.

If only 3 board members are present in a meeting, and 1 abstains from voting, can the board take action?





# Can the board act if 3 members are present, but 1 abstains?

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If only 3 members attend, and 1 abstains from voting, the board lacks sufficient votes to take action on the item.

The item must be tabled to be considered at the next board meeting.



# What's an associate member's role in a board meeting?

Advisory

Listen and learn

I have no idea

Learn and contribute

Just to share views. No voting allowed.

To listen learn voice opinions and ideas but cannot vote

To learn board process and help with committee

To give input only

# What's an associate member's role in a board meeting?

To learn. To be on committees

To fill in when a board meeting isn't there

Keep up with current items

To report

To in hope become a board member

Support the board with no vote

???

Report

# What's an associate member's role in a board meeting?

To help advise, have an input on the district

To learn district directors roles and responsibilities of the district and possibly become next board member.

Give opinion but can't vote

Anything that has come up since posting agenda

Unforeseen topic prior to posting of the agenda

Items unforeseen after agenda posted

Something you didn't know about in time to include on agenda



# What is an associate board member's role?

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Associate members may only:

- Report on items specifically tasked to them
- Respond to questions directly asked by the board on topics they have expertise/personal knowledge of

# What qualifies as new business?

Anything after the agenda is posted

Something that came up after the agenda that you had no prior knowledge of

Anything not on agenda

Items that come up after agenda is posted

Something not known before posting

Something that was not put on agenda

Brought up after agenda has posted and no idea it would come up

Anything that couldn't make the agenda because it wasn't known in 24 hours before



# What qualifies as new business?

Something that is unforsen after you have posted your agenda

Something that occurs after the agenda is posted

Something that could not havw been known before posting

Anything that has not been brought up before that the board would need to know

Something not known before you post your agenda

What is not known at the time the agenda was posted.

Things that have come up since agenda has been posted

Any business not known before agenda was posted. (Last minute information, updates, etc)

# What qualifies as new business?

Something that needs to be discussed not on the agenda

Things that can not be waited until next meeting and voting needs to occur.

Things that come up after the fact



# What qualifies as new business?

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New business should be rare and limited in scope

- Items which were not known about
- Or could not have been reasonably foreseen prior to posting the agenda.

# What qualifies as new business?

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New business is not:

- Allowed at special meetings
- Executive sessions
- Items you forgot to list on the agenda



# Best Practice Tip!

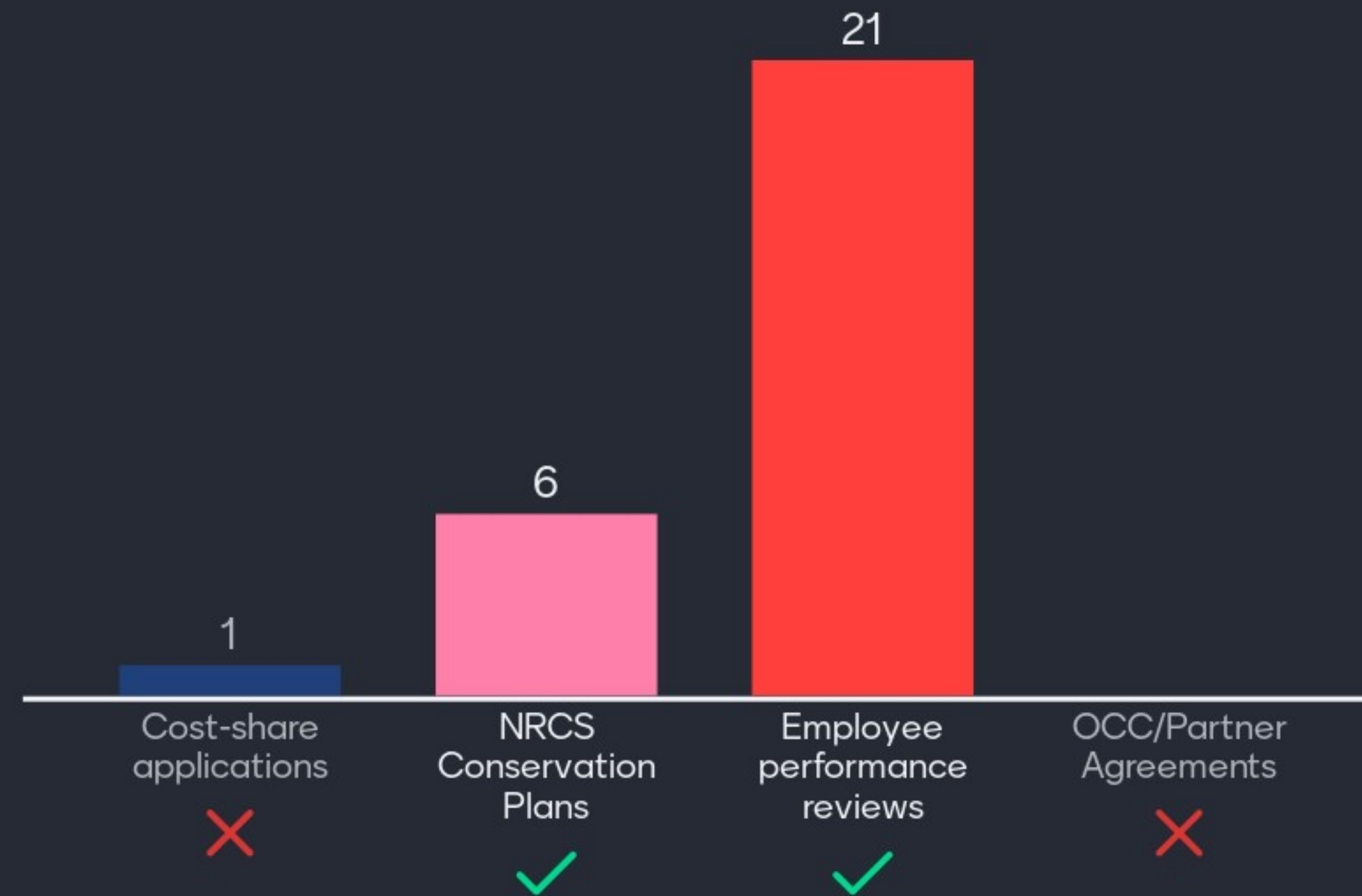
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**New business should be listed on the agenda as follows:**

*Consideration and possible action on New Business:*

Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen before the time of posting the final agenda.

# Which of these items is eligible for executive session?





# Which items are eligible for executive session?

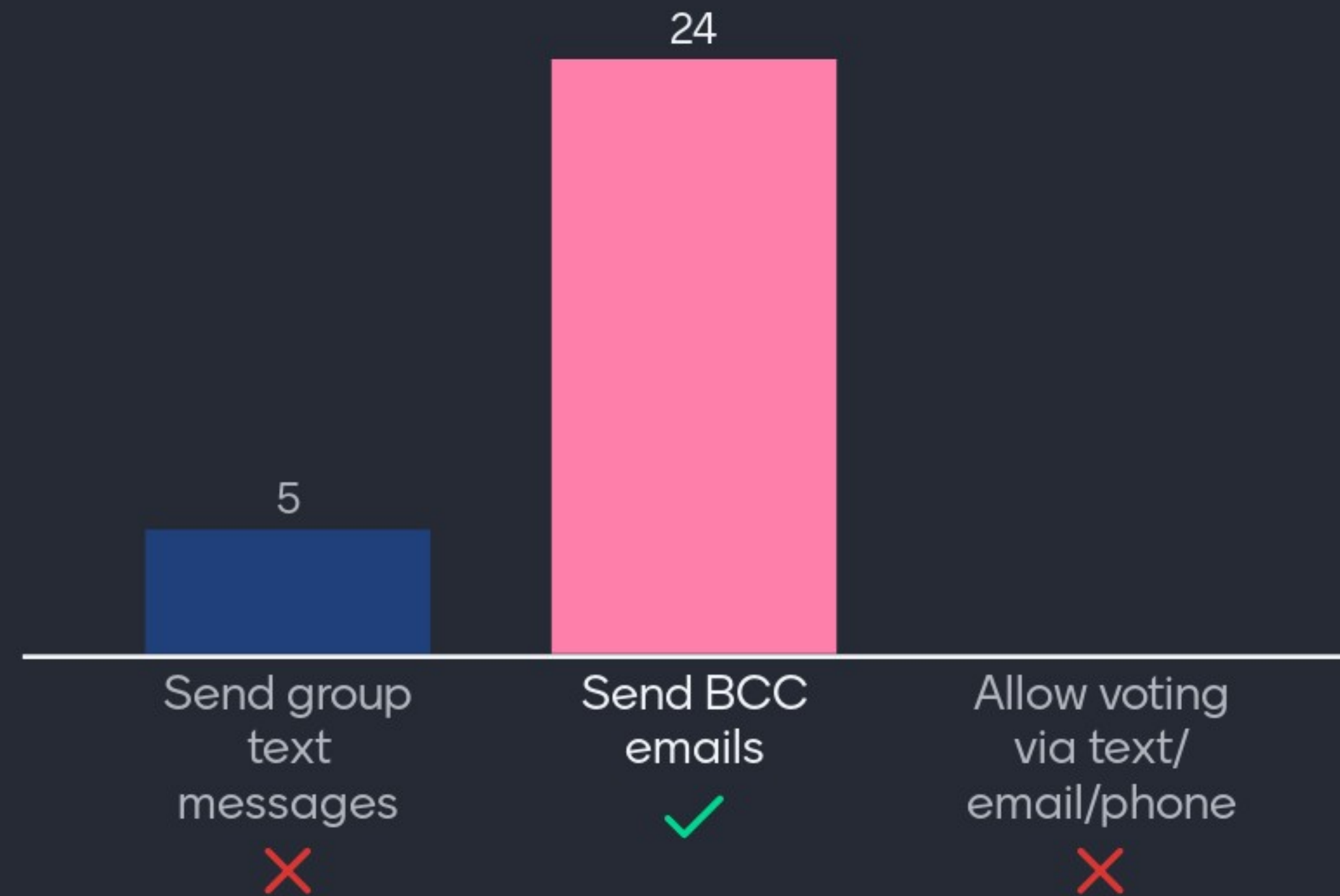
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Executive session items are limited to items that meet one of the authorized reasons outlined in the OMA.

These may include employee performance reviews and NRCS conservation plans.

These do **not** include partner agreements or cost-share applications.

# What's the best practice for electronic communications?





# How to handle electronic communications?

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- Emails should be BCC'ed to board members
- Texts should be sent individually

Discussing district business and/or voting by text, phone, or email is never allowed – it is an OMA violation.

# How can a board member attend meetings?





# Can a board member attend via phone or Zoom?

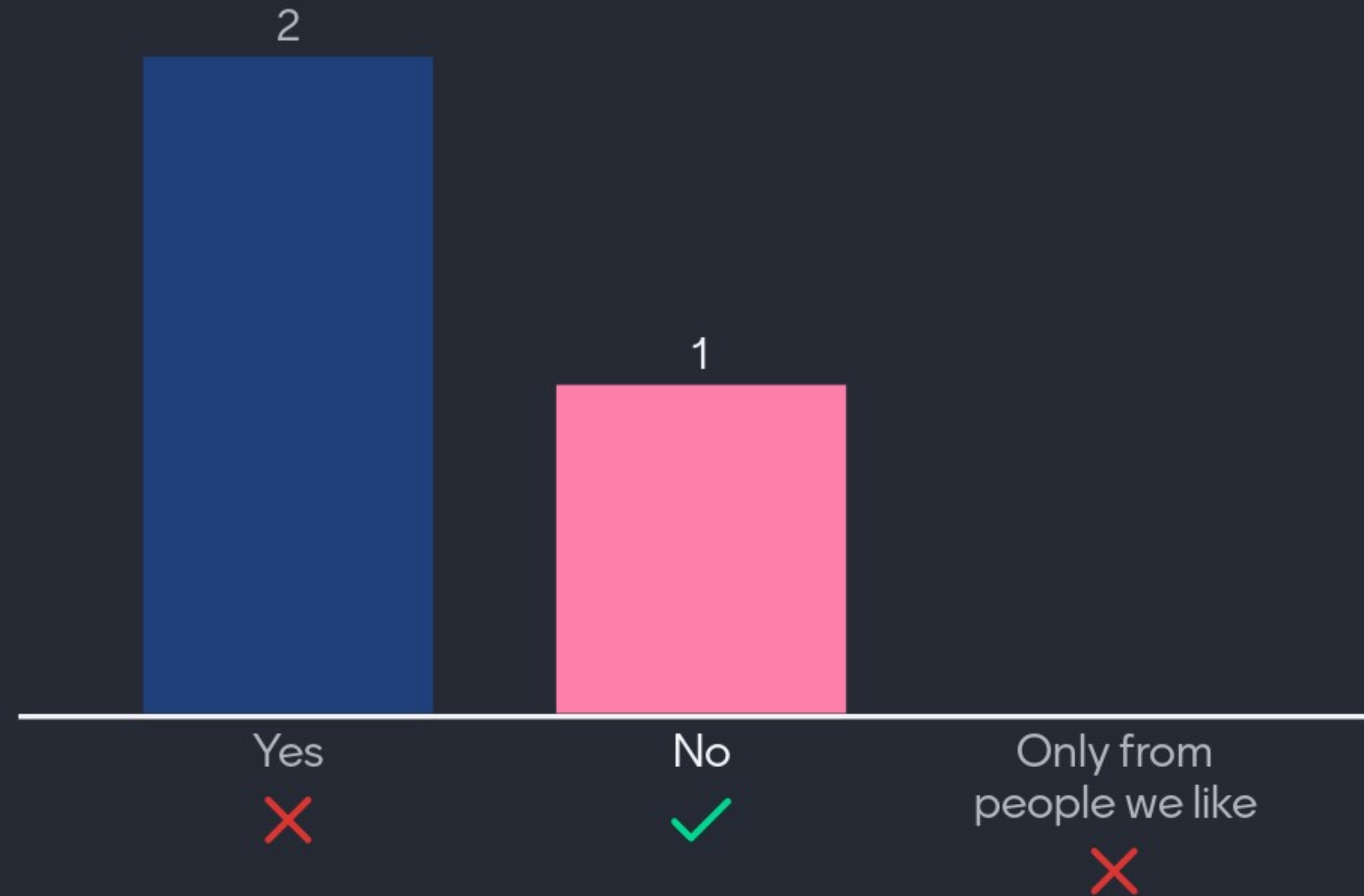
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Board member participation from remote locations is only allowed via video conference under strict OMA rules.

Phone voting/discussion participation is not allowed under any circumstances.

A board member may listen in (no discussion or voting) if members of the public are afforded the same accommodations.

# Is allowing public comment required?





# Is allowing public comment required?

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No, allowing public comment is not required.

If allowed, the board should have a policy governing public comments.

# When can the board request someone leave a meeting?

0  
Anytime they want

24  
Only if entering Executive Session

0  
Never



# Can the board request someone leave a meeting?

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No.

The board may not request members of the public or other board members leave a meeting under any circumstances than entering into executive session.



# What happens if the OMA is violated?

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## Civil Penalties

- Actions could be invalidated
- Executive Session minutes made public
- Any person can bring a civil action
- May have to pay reasonable attorney fees

## Criminal Penalties

- Misdemeanor offense
- Fine of up to \$500 and/or
- Up to 1 year in jail



# How to correct an OMA violation?

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**Action taken in violation of the OMA is invalid.**

District must:

- provide proper public notice by placing on the next meeting agenda
- Re-vote and record action



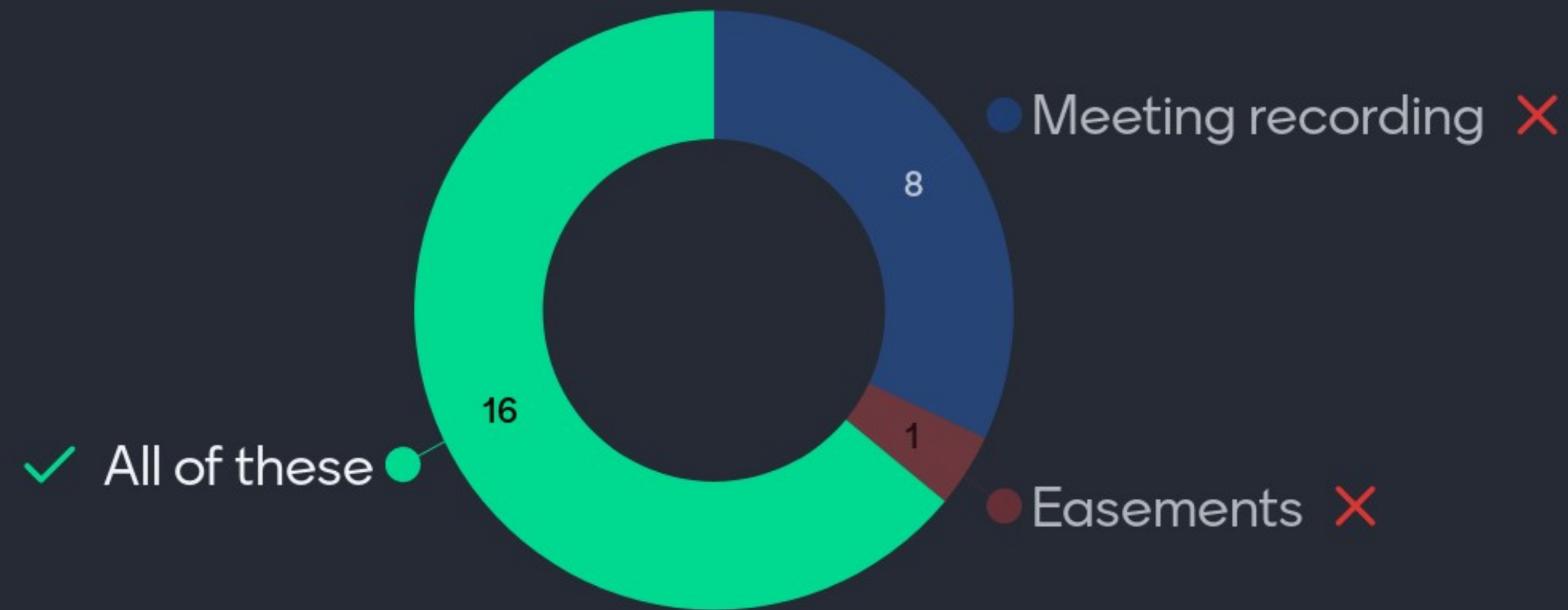
# Open Records Act

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# Which of these is considered a record?



# What is considered a record?

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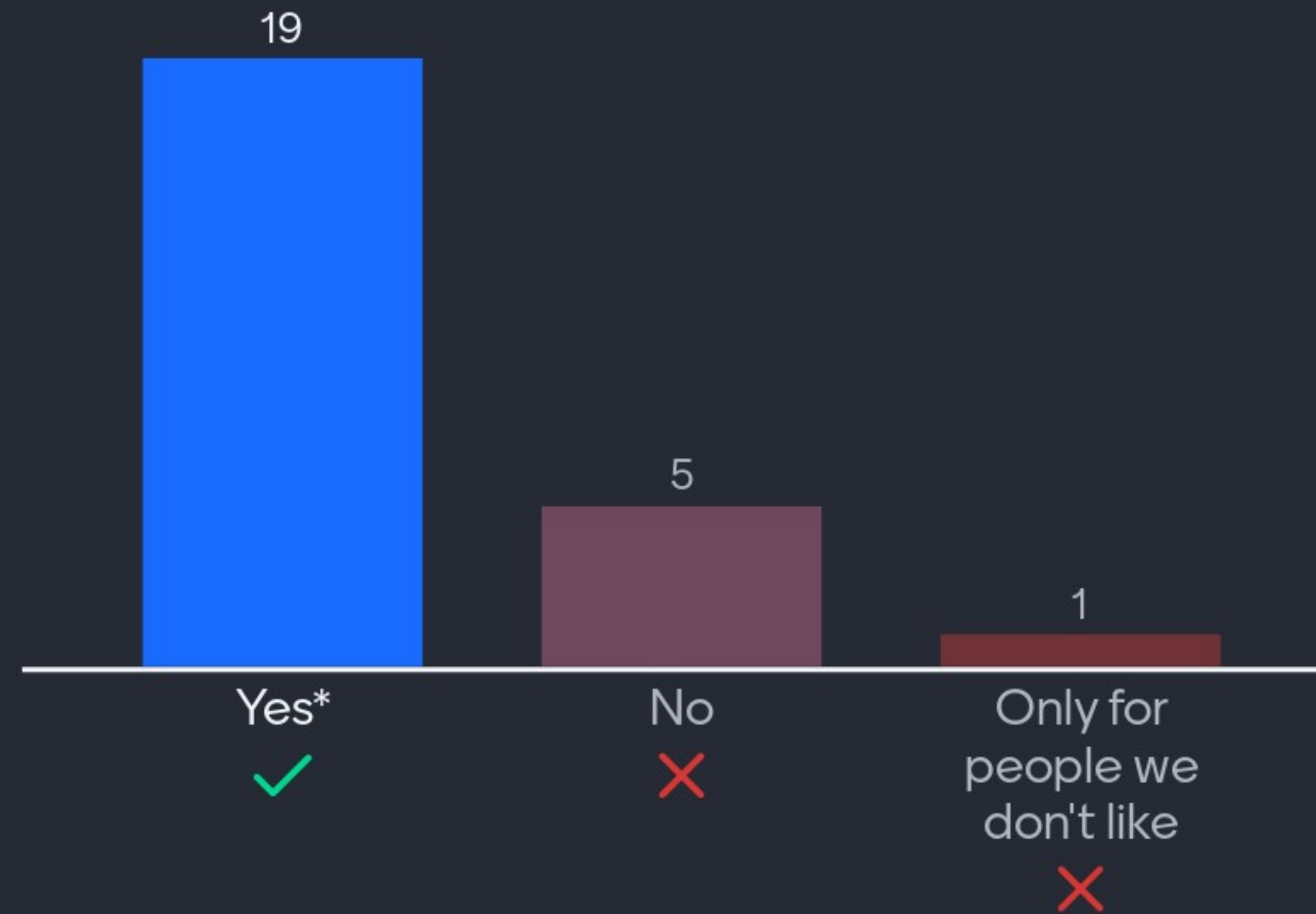
Permanent records include:

- Meeting recordings
- Easements

Draft minutes are considered a record until the official minutes are approved.



# Can the district charge for providing copies of records?



# Can a district charge for copies of records?

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The district must have an established policy and reasonable fee schedule in place.



# What items is a member of the public allowed to have copies of?



Only the Meeting Agenda



Everything in the board packet\*

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They get Nothing!

# What items provided in a meeting may the public have?

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Documents provided to the board are considered public records and must be provided to the public upon request.



# Is a *website* considered a record?



# Is a website considered a record?

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Websites are considered records under the ORA.





# What happens if the ORA is violated?

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## Civil Penalties

- Any person denied access to the record(s) can bring a civil suit
- May have to pay reasonable attorney fees

## Criminal Penalties

- Misdemeanor offense
- Fine of up to \$500 and/or
- Up to 1 year in jail



# How to correct an ORA violation?

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District must:

- provide the public record in a prompt, reasonable time.



*The End*