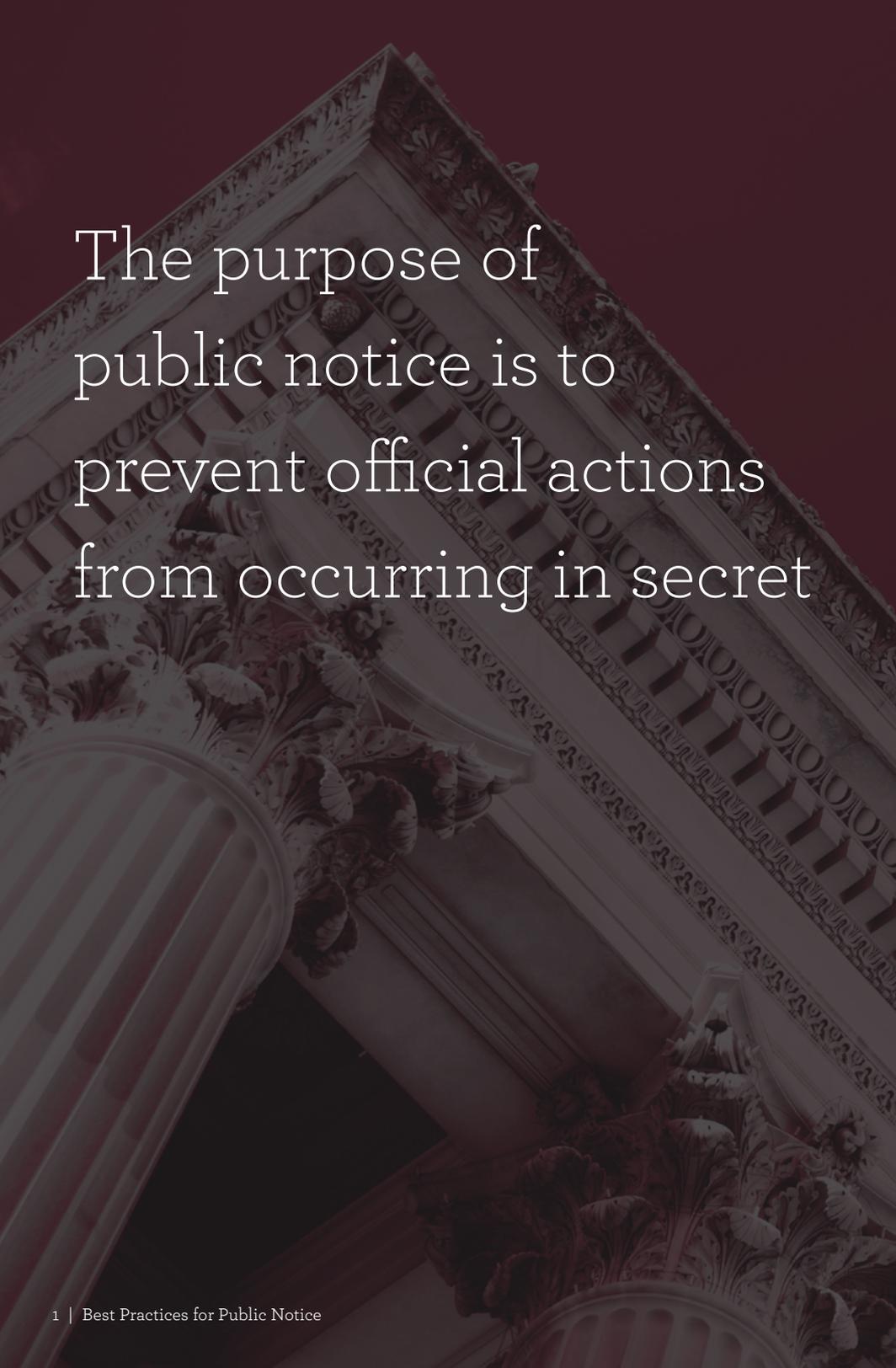


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Public Notice
Resource Center

Best Practices for Public Notice





The purpose of
public notice is to
prevent official actions
from occurring in secret

Since the first session of the U.S. Congress in 1789,
public notice has supported principles of

Democracy,
Transparency

and

Open Government

PUBLIC NOTICES MUST BE PUBLISHED INDEPENDENTLY OF THE GOVERNMENT AND OTHER PUBLIC TRUSTEES



*Publication should
be in print and in
digital format*

Print: Publication must have a fair price and a preexisting audience apart from public notice

Digital: There should be no cost to readers to access digital notices



*Public notices in
print should be
readable*

Readers should be able to find them

The best publishers provide enhanced services (e.g., email subscription) to specialized audiences at a reasonable price



Publishers should make reasonable effort to direct attention to notices

Efficient indexing for ease of reader use, quick access to web links, and reporting on news embedded in important notices are among the tools publications can offer



Print publication is self-authenticating

Publishers should be prepared to provide an affidavit of publication

Digital authentication is evolving

Print authentication particularly critical for real estate



Public notices should be archived for proof of publication

Archives should be open to public during reasonable office hours and copies should be available at publisher's cost



Archives should be preserved for historians

Care should be taken to retain archives when systems or owners change

Best Practices for Public Notice

Preamble

The purpose of public notices is to prevent official actions from occurring in secret. Public notice is intertwined with historic principles of democracy, transparency and open government.

The entities expected to provide public notice do not always consider openness to be in their self-interest. That is why legislatures have consistently mandated that the method of publication is not controlled by the entities whose information is being distributed. Conflicts of interest can be avoided by ensuring that publication occurs independently of the government or public trustee in charge of the notice.

Newspapers are the natural and traditional publications for these notices. As newspapers' own digital distribution is becoming more widespread, questions about the proper use of digital distribution must be addressed. Print distribution is the more practical and reliable method for archiving, reaching key audiences and producing evidence that can be used in court. Combining digital and print notice offers the public the best attributes of both methods. These Best Practices encourage modern methods of informing the public and protecting the public record.

Many entities are required by law to provide public notice. Virtually all levels of federal, state and local government face public notice responsibilities. So do some otherwise-private parties, such as those who hold or are disposing of private property belonging to others. All of them have one thing in common: they are discharging a responsibility of trust for the public. Here, they are all called trustees.

Informing the Public and Protecting the Trust

1. Public notices should be distributed by publications with expertise in providing information. These publications must be independent of the trustees charged by law with informing the public.
 - a. Public agencies, municipalities, counties, state governments and private parties holding a public trust should distribute public notices as broadly as practical, but the official legal publication of any notice should be accomplished by a body independent of the entity required to publish.
 - b. Publication should be in print and in digital format. Public notices should be reasonably accessible to the public, so that with a minimum of effort citizens may inform themselves.
 - c. Publications that carry public notice generally also carry a wide range of general news, advertising and local information that attracts readers to the publication and its public notices. Publications requiring subscriptions for purposes of disseminating a full package of news of interest to the public should keep prices within range of other paid media, and should provide public notices for free in digital format so long as the printed notice is serving as the official record. In the event a digital notice is mandated by law, trustees should expect to pay a reasonable price to the publisher to cover its costs of distribution, archiving and authentication.
 - d. Public notices in print should be readable. Trustees charged with creating public notices should expect to pay for readable material at rates in line with comparable advertising within a printed publication and its digital components.

- e. Publishers in digital and print format should make reasonable efforts to direct public attention to these notices. Quick access to website links, informing the public through journalistic enterprise and providing efficient indexing for ease of reader use are among the tools effective publications can offer.
 - f. Some specialized audiences may wish enhanced services, including special electronic notifications, and publishers are encouraged to provide such opportunities at reasonable cost. Trustees should support such efforts as a means to satisfy their responsibilities regarding transparency.
2. Public notices are often offered in evidence in lawsuits where someone questions whether a public trust was properly discharged. The notices should be archived and reasonably available to the public so that proof of publication is available at least as long as foreseeable litigation may occur.
 - a. Because public notice is generally a part of citizens' rights of due process, official records of notices must be available for use in court for significant periods after publication. Such periods should be guided at a minimum by statutes of limitations combined with reasonable expectations for length of litigation.
 - b. Public notices in archives of an official legal publication should be made available to any member of the public during reasonable office hours and facsimiles or copies should be available at the publisher's cost to provide them.
 3. Public notices provide a wealth of material for historians, genealogists, scientists and others engaged in research.
 - a. Researchers rely upon public notice archives in their work, so archives should be preserved in a format reasonably expected to remain readable for indefinite periods and, in the event the official legal publication is no longer able to preserve such archives, archives should be donated at no cost to a public institution charged with maintaining official records.
 - b. When purchasing a publication business that has provided public notice services, purchasers should not expect to maintain status as official publisher unless they are able to preserve accessible archives of the purchased publication or to donate such archives to a public institution that will preserve future access.
 4. Public notices should be authenticated so that they are provable in court without a human witness.
 - a. Print publication of public notice is authenticated for use in most courts upon presentation, generally with a publisher's affidavit of publication. No human witness is needed in these cases, which saves both courts and trustees valuable time and money. The use of digital notice as a substitute for self-authenticated print is an evolving concept in courts and is not yet a desirable substitute for print. Trustees should be aware of the rules in their jurisdictions—including federal courts, if applicable—and be prepared to support necessary steps to authenticate any electronic records they are charged with producing. In general, the printed record will be more reliable and practical.
 - b. Printed authentication may be particularly critical in land titles, where publication of notices involving liens or foreclosures may be essential to support good title for many years after a publication.



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