Memorandum to Presidents

Date: August 29, 1979
From: Office of the University Counsel and Vice Chancellor for Legal Affairs
Subject: Open Meetings Law III: 1979 Amendments (Committees; Executive Sessions)

Recent amendments to the Open Meetings Law (Article 7 of the Public Officers Law), which become effective October 1, 1979, will result in several changes affecting the work of committees and subcommittees and the conduct of executive sessions of public bodies. A copy of these amendments is attached (Laws of 1979, Chapter 704).

The revised law expands the definition of public body. As a result, meetings of committees and subcommittees of the State University Board of Trustees, the Councils of the State-operated campuses, the Board of Trustees of the State University College of Environmental Science and Forestry and the Boards of Trustees of the Community Colleges must be preceded by appropriate public notice and be open for public attendance in compliance with the requirements of the Open Meetings Law. Prior to the amendment, these requirements applied formally only to quorum-attended sessions of Boards and Councils (see earlier Memoranda to Presidents, Vol. 76, No. 25, November 12, 1976 and Vol. 78, No. 13, December 29, 1978).

Section 100 of the Law, which enumerates the purposes for which a public body may enter into an executive or closed session, has also been amended. In place of authorizing the conduct of executive sessions to discuss medical, financial, credit or employment matters concerning "any person or corporation," the revised law now requires that such discussions refer to a "particular person or corporation." Executive session discussions in this category must now relate to specific personnel or corporations rather than extend, for example, to a broad discussion of general personnel matters affecting a campus. You will also note that the subject of "the proposed acquisition of securities, or sale or exchange of securities" held by a public body, when publicity would substantially affect the value of such securities, has been added as a permissible subject for executive sessions.
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Other changes in the Open Meetings Law include an additional standard for providing public notice of meetings (public notice of the time and place of meetings "shall be conspicuously posted in one or more designated public locations") and a specific time limit of two weeks from the date of the meeting when the minutes of open meetings must be made available to the public.

Please contact our office if you have any questions regarding compliance with these changes.

Sanford H. Levine

Attachment
cc: Chairmen, Councils
Chairman, Board of Trustees of the
College of Environmental Science & Forestry
Chairmen, Boards of Trustees of Community Colleges

This memorandum addressed to:
Presidents, State-operated campuses
Presidents, Community Colleges

Copies for information only to:
Deans, Statutory Colleges
President Neville
Vice President Cook
AN ACT to amend the public officers law, in relation to the conduct of meetings pursuant to the open meetings law and repealing certain provisions thereof relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions one and two of subdivision ninety-seven of the public officers law, as added by chapter five hundred eleven of the laws of nineteen hundred seventy-six and such section as renumbered by chapter nine hundred thirty-three of the laws of nineteen hundred seventy-seven, are amended to read as follows:


2. "Public body" means any entity, for which a quorum is required in order to [transact] conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the general construction law, or committee or subcommittee or other similar body of such public body.

§ 2. Subdivisions one and two of subdivision ninety-nine of such law, as added by chapter five hundred eleven of the laws of nineteen hundred seventy-six and such section as renumbered by chapter nine hundred thirty-three of the laws of nineteen hundred seventy-seven, are amended to read as follows:

EXPLANATION — Matter in italics is new; matter in brackets [ ] is old law to be omitted.
1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the [public and] news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.

2. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the [public and] news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.

§ 3. Paragraphs f and h of subdivision one of section one hundred of such law, as added by chapter five hundred eleven of the laws of nineteen hundred seventy-six and such section as renumbered by chapter nine hundred thirty-three of the laws of nineteen hundred seventy-seven, are amended to read as follows:

f. the medical, financial, credit or employment history of [any] a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of [any] a particular person or corporation;

h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

§ 4. Subdivisions two and three of section one hundred one of such law, as added by chapter five hundred eleven of the laws of nineteen hundred seventy-six and such section as renumbered by chapter nine hundred thirty-three of the laws of nineteen hundred seventy-seven, are amended to read as follows:

2. Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary shall not include any matter which is not required to be made public by the freedom of information law as added by article six of this chapter.

3. Minutes of meetings of all public bodies shall be available to the public in accordance with, and to the same extent and in the same manner as is authorized for governing bodies by, the provisions of the freedom of information law [as added by article six of this chapter] within two weeks from the date of such meeting except that minutes taken pursuant to subdivision two hereof shall be available to the public within one week from the date of the executive session.

§ 5. Subdivision three of section one hundred four of such law is repealed.

§ 6. This act shall take effect on the first day of October next succeeding the date on which it shall have become a law.