



State University of New York

*Memo To All
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Memorandum to Presidents

Date: December 29, 1978

Vol. 78 No. 13

From: Office of the University Counsel and
Vice Chancellor for Legal Affairs

Subject: Open Meetings Law II: Informal or Work
Sessions of Councils and Boards

A recent decision of the State's highest court has made it clear that informal gatherings of public bodies to discuss public business, whenever a quorum is present, are subject to the requirements of the Open Meetings Law (Orange County Publications v. Council of the City of Newburgh).

These informal meetings, which have been variously known as work sessions, agenda sessions, conferences, organizational meetings, and the like, must now be preceded by proper public notice and be open to the public in the same manner as formal meetings at which voting is scheduled. (See earlier Memorandum to Presidents, Vol. 76, No. 25, November 12, 1976.) Social gatherings at which business is not discussed and casual encounters by members do not appear to fall within these requirements which are applicable to the State University Board of Trustees, Councils and Boards of Trustees of community colleges.

The Open Meetings Law does provide, however, for the holding of executive or closed sessions to discuss or act on specifically enumerated subjects: matters which may imperil public safety or law enforcement if disclosed, litigation, collective bargaining negotiations, personnel transactions, the medical or financial history of any person or corporation, examinations, and real property transactions where publicity would substantially affect property value. The full text of the statute outlining the procedures for the conduct of such executive sessions is attached (Public Officers Law, §100). A separate section of the law also exempts matters which are made confidential by federal or state law.

Consideration should therefore be given to the adoption of changes in Council or Board procedures which may be necessary to bring such procedures into compliance with the Open Meetings Law and judicial interpretation. Please advise us if there are any problems or questions.

Sanford H. Levine
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Attachment

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

This memorandum addressed to:

Presidents, State-operated campuses
Presidents, Community Colleges

Copies for information to:

Deans, Statutory Colleges
President Rose
Vice President Cook

Public Officers Law, Section 100

§ 100. Conduct of executive sessions

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:

- a. matters which will imperil the public safety if disclosed;
- b. any matter which may disclose the identity of a law enforcement agent or informer;
- c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- d. discussions regarding proposed, pending or current litigation;
- e. collective negotiations pursuant to article fourteen of the civil service law;
- f. the medical, financial, credit or employment history of any person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of any person or corporation;
- g. the preparation, grading or administration of examinations; and
- h. the proposed acquisition, sale or lease of real property, but only when publicity would substantially affect the value of the property.

2. Attendance at an executive session shall be permitted to any member of the public body and any other persons authorized by the public body.

Formerly § 95, added L.1976, c. 511, § 1; renumbered 100, L.1977, c. 933, § 2.