



Special Report

IASB Commentary on Education Issues

Open Meetings Law For Teacher Quality Committees

Is the new Teacher Quality Committee subject to the open meetings law?

Yes. Advisory committees established by statute are subject to the open meetings law.

So, what does that mean for the committee members?

A meeting is defined as a gathering of a majority where “there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties.” There are four essential elements in the definition of meeting:

- A gathering in person or by electronic means, formal or informal,
- A majority of committee members must attend the gathering,
- Deliberation or action must occur, and
- The deliberation or action must be within the scope of the committee’s policy-making duties.

1982 O.A.G. 162.

So, if the above four bullets are met, you are in a meeting and need to comply with the open meetings law.

Advisory committees subject to the open meetings law are subject to all provisions of that law. They must:

- post public notice of their meetings,
- post a tentative agenda, and
- keep minutes. (Advisory committees, however, are not required to publish minutes of their meetings in the newspaper. The board minutes publication requirement is not a requirement of the open meetings or public records laws; rather, it is a requirement of *IOWA CODE § 279.35*. The superintendent should work with the board secretary to discuss the maintenance of notices, agendas, minutes, etc.)

What about the use of e-mail?

Since the open meetings law does allow for electronic meetings, the question of whether discussions via e-mail constitute a meeting has yet to be addressed by a court. It has, however, been addressed on the front page of a few newspapers. Committees should be cautioned against discussing committee business via e-mail. It’s one thing to apprise fellow committee members of a new link on the Iowa Department of Education (DE) Web site; it’s another for the committee to discuss the use of the professional development funds. The open meetings law states that we err on the side of openness so discussions via e-mail could easily violate the intent of the law. Some argue e-mail is no different than phone calls. But it is – it has the capacity to notify all committee members at once, something you can’t do with a phone call. Most committee members would recognize a conference call to discuss budget cuts would violate the open meetings law.

What type of agenda do we need to post?

The posted agenda is the committee’s tentative agenda and needs to be posted, at a minimum, at the central administrative office. The tentative agenda is the agenda of the committee and can only be amended upon a finding of good cause by the committee. Good cause is usually defined as an issue that cannot wait the 24 hours necessary to hold a special meeting of the committee. While this may seem cumbersome, we need to remember the public

has a right to know what the committee is doing and how it is spending tax dollars. By not apprising the public, it won't know when to attend committee meetings. Also, the committee should contact the board secretary regarding the notice to the media and follow the same process the board uses.

Can we ever talk in private?

While the law allows for closed sessions, it is hard to imagine the case where the Teacher Quality Committee would need to go into closed session. Should this issue surface, the superintendent should contact local counsel.

Why is it so important that we follow the open meetings law?

Mainly because it is the law and, as role models for students, you should be following the law. But, on a more personal note, failure to comply with the open meetings exposes you, as an individual, to fines and attorneys fees, not just yours but your opponent's should you lose. The open meetings law is one of those very few exceptions to the law where the school district cannot protect committee members from suit. If there is a suit, it is a personal one against the committee members and there is no protection from the school district or its insurer. And, at \$500 per allegation (and there are usually many) it can begin to add up.

For more information, contact Len Cockman, human resources services director for IASB, or Mary Gannon, attorney for IASB at (515) 288-1991.

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