IASB Iowa Association of School Boards

Special Report

Commentary on Education Issues

Iowa Supreme Court Decision Impacts Iowa Open Meetings Law

Recently, the Iowa Supreme Court issued an opinion involving the Iowa open meetings law. The law, Iowa Code Chapter 21, requires all governmental bodies including school boards, AEA boards, community college boards of trustees and the State Board of Education, to perform their official functions in the open and ensure the public has access.

The case, *Hutchison et. al v. Warren County*, involved an allegation of an open meetings law violation against a county and its board of supervisors, consisting of three elected board members. The supervisors involved met individually for discussions with the county administrator to voice their thoughts and concerns on various topics related to a reorganization of the county workforce. The county administrator then reported the thoughts and concerns to other supervisors. By using this process, the Board reached a compromise on which positions to eliminate. No two supervisors were present at the same time when these discussions occurred and the meetings were held in private without posting advance notice to the public.

The Court held that private meetings between an administrator and board members may be illegal even if a majority of the actual board, a "quorum," is not present, if the administrator is acting as an agent for the board and the meetings involve deliberation or action on matters within the scope of the board's policy-making duties. Ultimately, this case was remanded back to the lower court to apply this new interpretation to the facts in the case.

Expanded Meeting Definition

In the opinion, the Court expanded the definition of a meeting to include, "all in-person gatherings at which there is deliberation upon any matter within the scope of the policy-making duties of a governmental body by a majority of its members, including in-person gatherings attended by a majority of the members by virtue of an agent or proxy."

This definition establishes that the requirements of the open meetings law must be followed if a majority of the board, either in person, electronically, or through agents, gathers to deliberate on a matter within the board's policy-making duties.

What Does the Decision Mean for Board Members?

- IASB resources and training have always encouraged boards to follow not only the letter of the open meetings law, but also to understand that transparency is an important ethic of good governance. This guidance remains the same following the Court's opinion.
- Individual board members may still meet with employees for the purpose of gathering information or discussing options available to the board. The Court specifically stated, "the open meetings law permits members of a governmental body to discuss with its employees matters concerning its operation." However, board members should be cautious that these meetings are only for general discussion or information gathering and do not wander into deliberation or consensus building.

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- Board members should not ask employees to deliberate on behalf of or build consensus among board members on policy-making matters.
- While this is a lengthy opinion, it is worth reading to understand what the board did to warrant the allegations of open meeting violations. This case, and the facts associated with it, act as a good learning opportunity and reminder for boards and those who work with boards on a regular basis.
- As the minority opinion addressed in the case, there are considerable questions that remain as a result of the Court's decision. Boards should consult with their district's legal counsel on fact-specific circumstances or situations that may have implications for individual boards resulting from this case.

If you have questions about this Special Report*, please contact Josie Lewis, IASB Policy & Legal Services Director at jlewis@ia-sb.org or 1-800-795-4272 x228.*

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