

DEPARTMENT OF STATE
ANDREW M. COVINO, GOVERNOR ROSALIND BRADEN, ACTING SECRETARY OF STATE

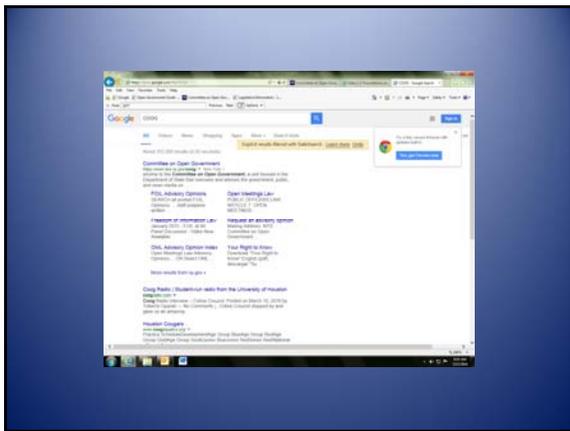


New York State Committee on Open Government

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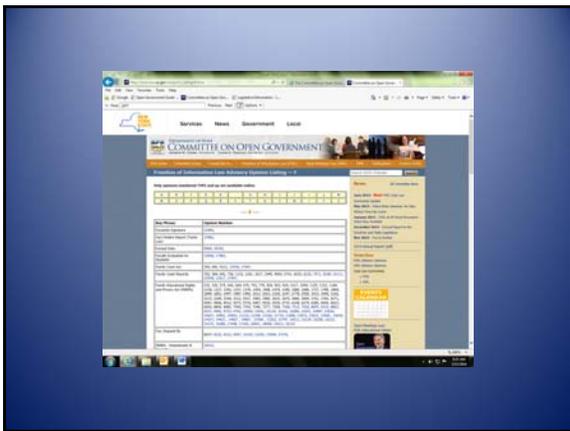
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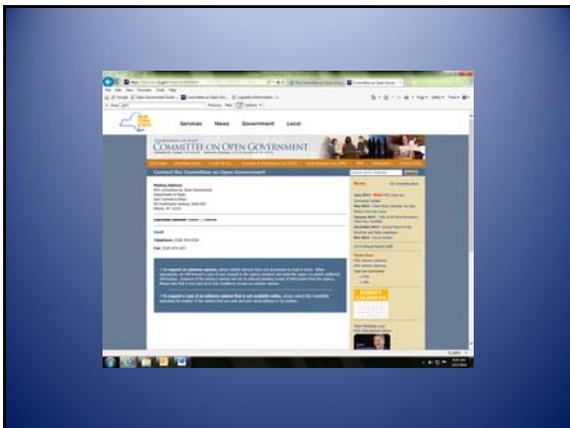
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Public Officers Law
Article 7
Sections 100-111

Public Bodies

- Two or more people
- Quorum necessary to conduct business
- Authority to act collectively
- Committees

Are you having a Meeting?

- Is there a quorum present?
- To discuss public business?
- Regardless of intent or characterization



No Legal Distinction



- Workshop or work session, Agenda Session
- Regular meeting
- Informal gathering
- Pre-board meeting

Other Gatherings

- Site visit
- "Retreat" or educational seminar
- Attendance at committee meeting
- Social



Intent

- It is essential that public business be performed in an open and public manner and that the citizens be "fully aware of and able to observe the performance of public officials."
- Citizens have the right "to attend and listen to the deliberations and decisions that go into the making of public policy."
- Public bodies shall make all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.

Telephone Calls, Emails

- Definition of “meeting”
 - Requires physical presence or
 - Videoconferencing permitted
- Cannot conduct a meeting via teleconference or by e-mail
- Does not mean that members of the public body cannot share information via e-mail

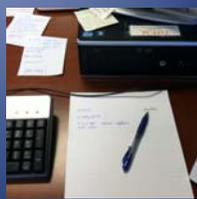
Notice

- ✦ Time and place
- ✦ Prior to every meeting
- ✦ To the media
- ✦ Designated location
- ✦ On the website



Minutes

- Must include: Motions/Proposals/Resolutions/Votes
- Executive sessions: only necessary if actions taken
- Must be made available within:
 - Two weeks for open session
 - One week for executive session
- Unapproved or draft minutes



Recording

- Any meeting of a public body that is open to the public shall be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means
- Public body is not obligated to record
- Public body may establish reasonable rules to limit disruption/interference (model rules available on COOG website)



Executive Session



- Part of an open meeting (not prior to or separate from)
- Upon majority vote
- Specificity of motion

Grounds for Executive Session

- matters which will imperil the public safety if disclosed;
- any matter which may disclose the identity of a law enforcement agent or informer;
- information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- discussions regarding proposed, pending or current litigation;
- collective negotiations pursuant to article fourteen of the civil service law;
- the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
- the preparation, grading or administration of examinations; and
- 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.

Public Participation

- Not required
- Can establish reasonable rules
- Hearings



OML Section 103(e)

- Records scheduled to be discussed at public meeting
 - Records that are public under FOIL
 - Proposed resolutions, laws, rules, regulations, policies or any amendment thereto
 - Shall be made available upon request, prior to or at the meeting
 - Shall be made available online prior to the meeting if the agency maintains a regularly and routinely updated website and utilizes a high speed internet connection
 - Agency may, but not required to spend additional moneys to implement this section

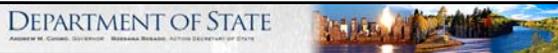
Exemptions

- Second mechanism for meeting “behind closed doors”
- If an exemption applies, the Open Meetings Law does not – as if the OML does not exist
- Section 108: judicial or quasi-judicial proceedings, except proceedings of the public service commission and zoning boards of appeals; deliberations of political committees, conferences and caucuses; any matter made confidential by federal or state law
- e.g., meetings with municipal attorney covered by attorney client privilege

Non-Compliance

- Article 78 proceeding
- Authority to
 - award costs and attorney's fees
 - invalidate action
 - require training





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