



STATE OF NEW YORK
DEPARTMENT OF STATE
COMMITTEE ON OPEN GOVERNMENT

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E-MAIL

TO:

FROM: Robert J. Freeman, Executive Director

The staff of the Committee on Open Government is authorized to issue advisory opinions. The ensuing staff advisory opinion is based solely upon the facts presented in your correspondence.

Dear

I have received your letter and apologize for the delay in response. In your capacity as Vice President of Somers Library Board of Trustees, you raised the following question:

“Since the Town of Somers has a population of about 18,000, are we exempt from the requirements of the open meetings law with regard to our committee meetings?”

In this regard, as the boards of trustees of a variety of entities characterized as “public libraries” are required to give effect to the Open Meetings Law. Some are governmental entities; others are not-for-profit corporations that typically have a relationship with government but which are not governmental entities. The boards of trustees of both the governmental and non-governmental public libraries are required to comply with the Open Meetings Law pursuant to §260-a of the Education Law, which states that:

"Every meeting, including a special district meeting, of a board of trustees of a public library system, cooperative library system, public library or free association library, including every committee meeting and subcommittee meeting of any such

board of trustees in cities having a population of one million or more, shall be open to the general public. Such meetings shall be held in conformity with and in pursuance to the provisions of article seven of the public officers law. Provided, however, and notwithstanding the provisions of subdivision one of section ninety-nine of the public officers law, public notice of the time and place of a meeting scheduled at least two weeks prior thereto shall be given to the public and news media at least one week prior to such meeting."

Since Article 7 of the Public Officers Law is the Open Meetings Law, meetings of boards of trustees of various libraries, including public libraries that are not-for-profit corporations, must be conducted in accordance with that statute.

But for the enactment of §260-a, the boards of trustees of non-governmental or not-for-profit corporations that head public libraries would not fall within the scope of the Open Meetings Law. However, a board of trustees of a public library that is a governmental entity would fall within the coverage of the Open Meetings Law, even if §260-a of the Education Law had not been enacted, for it would constitute a "public body" subject to that statute.

Section 102(2) of the Open Meetings Law defines the phrase "public body" to mean:

"...any entity for which a quorum is required in order to 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."

Based on the foregoing, the Open Meetings Law clearly applies to the governing bodies of governmental entities, and in addition, the last clause in the definition indicates that committees, subcommittees and similar bodies of a public body are themselves public bodies required to comply with the Open Meetings Law. In contrast, when the board of trustees of a public library that is not a governmental entity is required to conduct its meetings in accordance with the Open Meetings Law, §260-a of the Education Law provides, by implication, that committees and subcommittees of boards of trustees, except those in New York City, are not required to give effect to the Open Meetings Law.

In consideration of the preceding commentary, if the Somers Public Library is a governmental entity, i.e., a municipal or school district library, I believe that committees and subcommittees consisting of two or more members of the Board would be required to comply with Open Meetings Law. In my view, the language of that law clearly indicates that the Board of Trustees is a public

body and, therefore, that committees consisting of its members are also public bodies required to comply with the Open Meetings Law.

I hope that I have not been of assistance.

RJF:tt
