

Westchester Putnam School Boards Association

District Clerk Workshop

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What's New 2024

- Chapter 302, Laws of 2024 - Notification of Public Employee when a FOIL request is made for the employee's disciplinary records.
 - ✓ Notification in writing to current and former employees that the district has responded to a FOIL request for their disciplinary records
 - ✓ Notification to current employee's address on file and for former employees, to the last known address or email address.
 - ✓ If current contact information cannot be found, must document the attempts.
 - ✓ Disciplinary records include:

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What's New 2024

➤ FOIL - Employee Notification (cont'd)

- Complaints, allegations and charges against the employee
 - Name of employee complained of or charged
 - Transcript of any disciplinary hearing, including exhibits introduced
 - Disposition of disciplinary proceeding
 - Final written opinion or memorandum supporting the disposition and discipline imposed, including the district's complete factual findings and its analysis of the conduct and appropriate discipline of the employee
- ✓ FOIL Policy should be revised to include this information.

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What's New 2024

➤ Chapter 56, Laws of 2024 - Election Results Reporting (effective April 1, 2026)

- ✓ Adds requirements to the Election Law and Education Law regarding reporting election results to the NY Voting and Elections Database
- ✓ Includes:
 - Election results at election district level
 - Voting registration lists
 - Voter history files
 - Maps of election districts

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What's New 2024

- Election Results Reporting (cont'd)
 - ✓ Information about absentee and affidavit ballots (tabulations of valid and invalid ballots, reasons why invalid, quantity and disposition of invalid ballots)
 - ✓ Lists of poll sites
 - ✓ Other information in Section 3-112, Election Law

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What's New 2024

- Chapter 311, Laws of 2024 - Student Ex-Officio Board Members (Effective July 1, 2025)
 - ✓ Requires all school districts operating high schools and all BOCES to establish procedures to designate at least one high school student as ex-officio, non-voting member of the board of education,
 - ✓ In the past school districts had discretion whether or not to have a student board member, and it was subject to voter approval.
 - ✓ The student must have attended the high school for at least one year prior to appointment to the board.
 - ✓ Must have at least one student per high school, but can have more than one.

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What's New 2024

- Student Ex-Officio Board Member (cont'd)
 - ✓ The following are options for method of appointment:
 - Student that has been elected as student president of the high school
 - A student elected by the student body
 - A student selected by the high school student government
 - A student selected by the high school principal
 - A student selected by the superintendent, or
 - A student selected by majority vote of the board of education

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What's New 2024

- Student Ex-Officio Board Member (cont'd)
 - ✓ For a BOCES, the number of student board members is determined by the number of component school districts
 - Less than 10 - one student member
 - Between 10 and 20 - two student members
 - More than 20 - three student members
 - ✓ The BOCES must establish a process to determine which component district(s) will select the student member(s) each year.
 - ✓ The student member must have attended the high school in the component district for at least one year and must participate in a BOCES program

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What's New 2024

➤ Student Ex-Officio Board Member (cont'd)

- ✓ Student Board Members:
 - Are entitled to sit with the board members at all public meetings and public hearings
 - May be permitted to participate in other board of education activities and responsibilities, at the discretion of the board
 - May speak on issues before the board, but may not vote
 - May not attend executive session or other meetings and hearings not open to the public
 - May not receive compensation
 - May not receive sensitive/confidential information

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What's New 2024

➤ Chapter 143, Laws of 2024 - Probationary Appointments and Granting Tenure

- ✓ Jarema Act Credit - reduces the probationary period by up to two years for teachers for long-term regular substitute service that immediately precedes appointment to probation in the same tenure area of employment AND removes the APPR rating requirement
- ✓ Removes the requirement a teacher who received prior tenure must have received an APPR rating in the final year of service to entitled to a shortened (3 year) probationary term.
- ✓ Removes the requirement that in order for a classroom teacher or building principal to be eligible for tenure they must have received APPR ratings of effective or highly effective in at least three of the preceding four years.

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What's New 2024

- Probationary Appointments and Granting Tenure (cont'd)
 - ✓ What does this mean? You no longer need to have verbiage in the appointment resolutions about meeting APPR standards.
- Chapter 478, Laws of 2024 - Student Voter Registration and Pre-registration
 - ✓ Adds BOCES, charter schools and nonpublic schools to the requirement to have a policy to promote student voter registration and pre-registration, including procedures to provide access to voter registration and pre-registration applications during the school year and assistance in filing such applications.

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What's New 2024

- Chapter 58, Laws of 2024 - Extends the provisions of the Open Meetings Law that permit the use of videoconferencing in extraordinary circumstances by a member of a public body from a location that is not open to the public until July 1, 2026.

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Federal Title IX Regulations

- Recent Title IX Regulatory Changes (effective August 1, 2024)
 - ✓ The definition of “discrimination” now includes discrimination not only on the basis of sex, but also on the basis of sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
 - ✓ “Sex-based harassment” includes:
 - *quid pro quo* sexual harassment, sexual assault, dating violence, domestic violence, and stalking.
 - Hostile environment harassment: unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the education program or activity.

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Federal Title IX Regulations (cont’d)

- Recent Title IX Regulatory Changes (cont’d)
 - ✓ Sex-based hostile environment must also be addressed even when some conduct alleged to be contributing to the hostile environment occurred outside the education program or activity, or outside of the US.
 - ✓ School districts can use a single investigator and decisionmaker model, and may designate investigators in addition to Title IX coordinator(s).
 - ✓ School districts can offer an informal resolution process for sex discrimination complaints unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary or secondary school student, or unless it would conflict with federal, state, or local law.

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Federal Title IX Regulations (cont'd)

- Recent Title IX Regulatory Changes (cont'd)
 - ✓ Confidential employees are not required to notify the Title IX coordinator about conduct that reasonably may constitute sex discrimination. Instead, they must provide information to anyone who informs them of conduct that reasonably may constitute sex-based discrimination about their status as a confidential employee for purposes of Title IX, how to contact the Title IX coordinator(s), how to make a complaint, and how the Title IX coordinator(s) may be able to help.
 - ✓ A Title IX coordinator may only initiate a complaint in the absence of a complainant if the conduct presents an imminent and serious threat to someone's health or safety or prevents the school from ensuring equal access based on sex in its education program or activity.

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Federal Title IX Regulations (cont'd)

- Recent Title IX Regulatory Changes (cont'd)
 - ✓ Discrimination based upon current, potential or past pregnancy or related conditions is prohibited under Title IX. Schools must also provide reasonable modifications for students based upon pregnancy or pregnancy-related conditions, allow for reasonable break time for lactation for employees, and provide access to a clean, private lactation space for students and employees.
 - ✓ When a complainant or respondent is an elementary or secondary student with a disability, the Title IX coordinator must consult with one or more members of the CSE or Section 504 team, to determine how to comply with IDEA or Section 504 of the Rehabilitation Act of 1973.
 - ✓ Training must be provided to all employees. Training materials must be posted on the school district website with the policy.

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Federal Title IX Regulations (cont'd)

- Recent Title IX Regulatory Changes - Grievance Procedures
 - ✓ Title IX coordinators, investigators, and decisionmakers must be free from any bias and conflict of interest.
 - ✓ The school district has the burden to gather evidence and determine what is relevant or permissible, and provide for objective evaluation of relevant evidence and the exclusion of impermissible evidence.
 - ✓ There must be a process for assessing credibility when credibility is in dispute.
 - ✓ Preponderance of the evidence standard, unless clear and convincing evidence is used in all other comparable procedures.

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Language Minority Provisions Voting Rights Act

- Voting Rights Act was enacted by Congress in 1965
- The Language Minority provisions were added in 1975 to eliminate discrimination against minority group citizens:
 - “Whenever any state or political subdivision provides registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language.”
- Includes school districts

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Language Minority Provisions Voting Rights Act (cont'd)

- Requirements of the Minority Language Provisions:
 - Covered language minorities are limited to Native American Indians, Asians, Alaskan Natives and Spanish-heritage citizens
 - Westchester County is a language minority county for the Spanish language.
 - Putnam County is not a language minority county.
 - Last determination was made in December 2021

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Language Minority Provisions Voting Rights Act (cont'd)

- All election/vote information must be translated into Spanish, including:
 - Ballots, sample ballots, absentee ballots, early mail ballots, election information, voter registration, candidate information (if provided), polling place notices, instructions, voter information pamphlets, packets provided to Board candidates, including nominating petitions, campaign expenditure statements, and any other voter information.

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Language Minority Provisions Voting Rights Act (cont'd)

- According to U.S. Department of Justice (DOJ), based upon compliance letters sent to certain school districts in Westchester County, it also includes newsletters, the Budget, Budget Book, Preliminary Budget Book, PowerPoints, flyer for Prospective School Board Member Workshop.
- This includes information posted on the District website.
- There must be at least one individual at the polling place(s) who can assist Spanish speaking voters and translate as needed

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Language Minority Provisions Voting Rights Act (cont'd)

- DOJ Investigations:
 - Letters were sent to certain school districts in 2019 (they were not responded to by DOJ until 2023 or 2024)
 - Letters were sent to certain school districts in 2024
 - If DOJ finds noncompliance they will monitor future elections/vote to assure compliance
 - DOJ may commence litigation to enforce Language Minority compliance

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Board Meetings Quorum

- Section 41 of the General Construction Law defines a “quorum” as a majority of all seats on the Board of Education:
 - ✓ Necessary to convene a Board Meeting
 - ✓ Necessary to take any official action (pass a resolution or adopt a policy)
- A school board is not authorized by law to adopt a policy requiring affirmative votes by more than a majority of the board members.

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Board Meetings Quorum (cont'd)

- The supermajority vote requirements of Robert's Rules do not apply to school boards
- Supermajority Board voting requirements
 - 3/4ths vote to supersede a textbook within 5 years of its designation
 - 2/3rds vote to employ a teacher related by blood or marriage to a Board member
 - 3/5ths vote to standardize equipment or supplies of more than \$10,000
 - 2/3rds vote to employ a Board member who is a licensed physician as the school physician
 - 2/3rds vote to approve bond resolutions and capital note resolutions.

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Board Meetings

- Board meetings are meetings of a public body, not public meetings.
- Section 1708, Education Law requires boards of education to conduct a regular meeting at least once a quarter
- In city school districts other than NYC, monthly meetings are required
- Neither the Education Law nor the Public Officers Law prescribes the procedures to be followed at Board meetings or to prepare for meetings
- Local decisions addressed by policies and bylaws
- The rules cannot be unreasonable

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Board Meetings Open Meetings Law

- Open Meetings Law: Article 7, Sections 100 - 111 of the Public Officers Law
- Legislative Declaration:

It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable the governmental process to operate for the benefit of those who created it.

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Board Meetings Open Meetings Law (cont'd)

- The Open Meetings Law (OML) defines how boards of education, their committees/subcommittees and other legally required committees must notice their meetings.
- Possible consequences of failure to follow OML:
 - Determination that the public body violated the law
 - Annulment of Board action; the public body can reconsider and act on the action at a properly convened meeting
 - Require the public body to participate in training by the Committee on Open Government
 - Paying the legal fees and costs of the Petitioner who brings suit and prevails

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Board Meetings Open Meetings Law (cont'd)

- What is a meeting of a public body?
 - ✓ OML defines a meeting as an official convening of a public body for the purpose of **conducting public business**
- What is a public body?
 - ✓ 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, or committee or subcommittee or other similar body of the public body.

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Board Meetings Open Meetings Law (cont'd)

➤ Applicable to:

- ✓ Board of Education Meetings (Regular, Special and Workshops)
- ✓ Board Committee/Subcommittee Meetings
- ✓ District Committees required by Statute or Regulations (e.g. Audit Committee, Shared Decision Making, Title I)
- ✓ Does not apply to advisory committees like community involvement committees that are established at the Board's discretion. (e.g. Finance, Energy, etc.)

"A necessary function in the decision-making process shall not include the provision of recommendations or guidance which is purely advisory and which does not require further action by the state or agency or department thereof construction law..."

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Board Meetings Open Meetings Law (cont'd)

➤ Advisory Opinions on Committees:

- ✓ When the core of the committee consists of Board members and there is an equal or lesser number of other members, all of whom are District employees, OML applies.
- ✓ Budget Committee - Three members of a seven member Board, the Superintendent and School Business Official - discusses general budget items, budget process, collective bargaining and provides feedback to the Board in open meetings - OML applies

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Board Meetings Open Meetings Law (cont'd)

- Advisory Opinions on Committees (cont'd)
 - ✓ Advisory Committee (not required by law) consisting of a variety of stakeholders, such as administrators, teachers, CSEA, parents, students, consultants - OML does not apply even if one or two Board members are on the committee.
 - ✓ Committee consists of three Board members (out of nine); three additional Board members come to the meeting.
 - There is a quorum of the Board present
 - If two members sit at the table with the other three Board members, it becomes a meeting of the Board.
 - If the three Board members sit in the audience as observers, it would still be a committee meeting.

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Board Meetings Open Meetings Law (cont'd)

- ✓ Voting and action may only be carried out at a public meeting during which a quorum of the Board members is physically present or present by traditional videoconference.
- ✓ A meeting does not occur if members have a chance encounter or meet for reasons other than conducting business.
 - Attending a seminar or workshop
 - Social gathering (as long as school business is not discussed)

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Board Meetings Open Meetings Law (cont'd)

- What does it mean to conduct public business?
 - ✓ When action is taken upon a resolution/motion or policy;
 - ✓ When Board members deliberate about the business of the school district;
 - ✓ A string of e-mails or telephone calls that results in a consensus among a quorum of the Board would be an illegal meeting
- What would not constitute a meeting?
 - ✓ A Board Retreat
 - For building communications skills, interpersonal relations, training
 - Not for discussing or developing vision, mission, or goal setting
 - Not for discussing policies
 - ✓ A briefing by administration of fewer than a quorum.
 - ✓ A public hearing
 - ✓ A meeting with a Board of Education and its legal counsel (advice of counsel)

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Board Meetings Open Meetings Law (cont'd)

- Notice of Meetings
 - ✓ Scheduled a week in advance (at least 72 hours)
 - ✓ Special meetings within less than a week (as soon as is practicable)
 - ✓ If less than 24 hours notice of a special meeting is given, the Board can sign a waiver of the 24 hours notice. There must be a good faith effort to notify each board member of the meeting.
 - ✓ Notice includes posting on the website, sending to local media and conspicuous posting in one or more designated public places.
 - ✓ If a board member will be attending via traditional video conferencing notice of that location as well and that the public can attend from that location.

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Board Meetings Open Meetings Law (cont'd)

- Notice of Meetings (cont'd)
 - ✓ If the meeting will be attended by traditional videoconference, the location of the attendance by the board member must be included, with a notice that the public may attend from both or all locations.
 - ✓ If the meeting will be livestreamed, the notice must include the web address.

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Board Meetings Open Meetings Law (cont'd)

- Public Notice of agenda items and documents to be discussed at an Open Meeting
- In 2021 OML was amended to provide that materials must be made available upon request, or posted to the District website, to the extent practicable, at least 24 hours prior to the meeting.
 - ✓ Documents to be discussed at the Board meeting that would be available under FOIL, as well as resolutions, regulations, policies and amendments thereto
 - ✓ Rule of thumb: If a document could legitimately be discussed in an executive session, it would not be subject to this requirement.

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Board Meetings Open Meetings Law

- Traditional videoconferencing still exists - connecting multiple physical locations that are open to in-person public attendance
 - ✓ Location of remote attendance by Board member is in the Notice of the meeting
 - ✓ The notice invites the public to attend from the in-district and remote location(s)
 - ✓ More than one Board member can attend remotely at the same meeting
 - ✓ The public has the right to be present at any location from which Board members attend the meeting in-person or remotely
 - ✓ A Board member attending by traditional videoconference counts towards the quorum and can speak and vote on any issue as long as they can be seen, heard and observed by the public.

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Board Meetings Open Meetings Law

- Videoconferencing Under Extraordinary Circumstances (Ch. 56, Laws of 2022, now extended until July 1, 2026) - Allowing a board member to participate from a private location through videoconferencing.
 - ✓ Expands the use of videoconferencing by public bodies to conduct open meetings under extraordinary circumstances (as defined by the public body)
 - ✓ Optional
 - ✓ May be used provided that a minimum number of board members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend (in-district and by traditional videoconference)
 - ✓ Extraordinary circumstances defined by the District - can include disability, illness, caregiving responsibilities or other significant impediment to the Board member's physical attendance at the meeting.

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Board Meetings Open Meetings Law (cont'd)

Extraordinary circumstances (cont'd)

- To use video conferencing in extraordinary circumstances where the public may not attend at the remote location(s), a **public hearing must** be held and a **resolution adopted** for such use;
- The resolution must identify the bodies for which remote video attendance would be permissible which could include: the Board of Education, BOCES Board and, if desired, committees/subcommittees of the Board, as well as other committees of the District which are subject to the Open Meetings Law.
- Board members who videoconference from a remote location that is not open to in-person attendance **DO NOT COUNT** towards a quorum but may fully participate and vote as long as there is the quorum requirement is met, and they can be seen, heard and observed by the public.
- The public viewing the meeting remotely must have the right to participate in the public comment part of the meeting in real time, if public speaking is part of the meeting.

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Board Meetings Open Meetings Law (cont'd)

Extraordinary circumstances (cont'd)

- **Written procedures** must be developed regarding board member and public attendance rights consistent with policy, resolution and procedures issued pursuant to the new law and **conspicuously posted on the District's website**.
- Except during executive sessions, the public must be able to hear, see and identify Board members attending by videoconference.
- Minutes must include the names of members participating remotely under extraordinary circumstances (but not the address).

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Board Meetings Open Meetings Law (cont'd)

Extraordinary circumstances (cont'd)

- Public Notice of the Meeting must describe the use of videoconferencing for the particular meeting, where the public can view and/or participate in the meeting, where required documents and records will be posted or available, and identify the physical location for the meeting where the public can attend.
- The meeting must be recorded and the recordings posted or linked on the district website within 5 days following the meeting.
- Must be available for 5 years
- Upon request, the recording must be transcribed.

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Board Meetings Open Meetings Law (cont'd)

- Chapter 58, Laws of 2023, amended the OML with regard to videoconferencing under extraordinary circumstances to provide that where a board member has a disability (defined in Sec. 292 of the Human Rights Law) which renders them unable to participate in-person at a meeting location where the public can attend, they are considered present for purposes of fulfilling the quorum requirements, as long as all other criteria are met, AND as long as there is at least one physical location where the public can attend the meeting.

* The term "disability" means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.

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Board Meetings Open Meetings Law (cont'd)

➤ Miscellaneous:

- ✓ The audience must be able to observe (see, hear and identify) the members of the board at the meeting site.
- ✓ Any rules and regulations established must be reasonable
- ✓ The meeting site should be of sufficient size to house the public expected to be in attendance.
- ✓ The meeting site must be accessible to those with disabilities
- ✓ Unobtrusive video and audio devices must be allowed.
- ✓ The Committee on Open Government has stated that early morning meetings (7:20 A.M.) are inconsistent with the Open Meetings Law (OML-AO-3828)

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Board Meetings Open Meetings Law (cont'd)

➤ Executive Sessions

- ✓ An executive sessions is part of an open meeting and must be held during the time frame of the properly convened open meeting.
- ✓ An agenda that states the executive session is prior to the public meeting is incorrect.
- ✓ An executive session indicated on an agenda must state that it is a proposed or anticipated executive session, such as “proposed executive session subject to Board approval” or “it is anticipated that the Board will move to convene an executive session.”

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Board Meetings Open Meetings Law (cont'd)

Executive Sessions (cont'd)

- The reason for the executive session is not required to be on the agenda but must be stated in the motion to convene the executive session
- The permissible reasons for going into executive session are prescribed in the law and are exclusive. The reasons commonly used by school districts include:
 - ✓ Matters that will imperil the public safety if disclosed
 - ✓ Proposed, pending or current litigation
 - ✓ For current litigation, provide the name of the litigation
 - ✓ Possible litigation is not a proper reason

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Board Meetings Open Meetings Law (cont'd)

Executive Sessions (cont'd)

- ✓ Collective negotiations under the Taylor Law - State the name of the bargaining unit(s)
- ✓ 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
- ✓ "Personnel" is not a proper reason
- ✓ The proposed acquisition, sale or lease of real property, but only when publicity would substantially affect the value of these things.

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Board Meetings Open Meetings Law (cont'd)

Executive Sessions (Cont'd)

- In addition:
 - ✓ To discuss matters made confidential under Federal Law, such as the Family Educational Rights and Privacy Act (FERPA) - to be used, for example, when discussing student matters, including appeal of student disciplinary hearing
 - ✓ To discuss matters made confidential under State Law - such as attorney-client privileged matters.
- Additional reasons for executive session for Audit Committees:
 - ✓ To meet with the external auditor prior to the start of the audit
 - ✓ To review with the auditor any risk assessment of the District's fiscal operations
 - ✓ To receive and review the draft annual audit report and management letter, working with the auditor, to assist the Board in interpreting the documents.

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Board Meetings Open Meetings Law (cont'd)

Executive Sessions (cont'd)

- Merely regurgitating the statutory language or using shorthand such as "personnel" or "litigation" or "real estate" is not sufficient.
- There must be precise reasons for entering executive session.
- If the Board will or may take action after the executive session, the motion must include: "and the Board will (or may) take action after the executive session."
- If that language is not included, then the Board is precluded from taken action after the executive session.

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Board Meetings Open Meetings Law (cont'd)

- Voting in Executive Session is restricted to voting on:
 - ✓ Section 3020-a Education Law Charges
 - ✓ In the past, Boards voted on arranging for the placement of students with disabilities in executive session, but that does not occur any longer.
 - ✓ All other votes must take place at an open meeting.

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Board Meetings Open Meetings Law (cont'd)

- Confidentiality
 - ✓ Section 805-a of the General Municipal Law states:
 - “No municipal officer or employee shall ... (b) disclose confidential information
 - ✓ Confidential information acquired by him in the course
 - ✓ Of his official duties or use such information to further
 - ✓ His personal interest ...”
 - ✓ In 2005, the Commissioner put Board members on notice that breach of confidentiality regarding a matter that can be legitimately discussed in executive session could result in the Board member's removal from the Board.
 - ✓ Only a quorum vote of the Board can relinquish the protection afforded to lawful speech exchanges in executive session.
 - ✓ The Commissioner will not remove a Board member if the subject discussed in executive session is not a legitimate subject for executive session.

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Board Meetings Open Meetings Law (cont'd)

Regular and Special Meeting Minutes

- OML requires that minutes be taken at all open meetings of a public body which shall consist of minimally:
 - ✓ A record or summary of all motions, proposals, resolutions and any other matter formally voted upon;
 - ✓ The vote on all motions, proposals, resolutions, including who voted in favor, against and who abstained;
 - ✓ Board members present; if a Board member arrives later or leaves early, the time of arrival or departure.
 - ✓ Minutes may include a summary of public comment, Board member comments, but that is not required by law.

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Board Meetings Open Meetings Law (cont'd)

- ✓ Minutes must be posted on the website within two weeks of the meeting. Can be marked "Draft" or "Not Approved"
- ✓ [NEW] Unabridged video recordings or unabridged audio recordings or unabridged written transcripts may be deemed to be meeting minutes.
- Executive Session Minutes
 - A record or summary of the final determination on Section 3020-a probable cause
 - Minutes should not otherwise be taken
 - Minutes must be posted on the District website within one week of the executive session

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Board Meetings Open Meetings Law (cont'd)

Public Comment

- No statutory requirement in Education Law or Public Officers Law to allow members of the public to speak at Board meetings
- The Commissioner of Education has encouraged school boards to allow public comment on matters under consideration
- Should be addressed in Board Policy
- Rules regarding public comment must be reasonable

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Board Meetings Open Meetings Law (cont'd)

Public Comment (cont'd)

Considerations:

- One or two public comment portions of the meeting
 - ✓ If two, one on agenda items and one on non-agenda items
- The amount of time for the public comment portions of the meeting
- Maximum amount or time per speaker
- Procedure for signing up to speak, if any

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Board Meetings Open Meetings Law (cont'd)

Public Comment (cont'd)

- Who may speak: residents vs others
 - ✓ In a 1992 Commissioner's Decision, the Commissioner said that school boards do not have to allow non-residents to speak at board meetings, even when there is a board policy allowing district residents to speak.
 - ✓ In 2006 the Committee on Open Government concurred with the 1992 Commissioner's Decision that school boards are not required to allow members of the public to speak at board meetings, but cautioned that if public participation is permitted, it may not discriminate between residents and non-residents

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Board Meetings Open Meetings Law

Public Comment (cont'd)

- Committee on Open Government has also stated that since any member of the public has the right to speak at Board meetings, you cannot **require** them to provide name, address or other information (but you can **request** the information).

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Questions from You

1. In dealing with FOILs, do you start the 5 days once the district has been served or once the FOIL officer has been served.
2. Releasing settlement agreement for FOILs with no redactions. Make settlement agreements public at BOE meeting.
3. Student Ex Officio Board Members
4. Safety and Security during Votes
5. Are districts required to comply with a FOIL request for employee disciplinary records
6. Multi-year contracts. Do they need annual Board approval? Best way to handle?

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Questions from You

7. What is the best practice for consent agenda, grouping non-controversial issues so that they can be passed by a single motion? How are the items/issues listed on the agenda and what backup needs to be provided to the public? Any cons?
8. Recent changes on Title IX policies.
9. Review of public notice requirements/best practices for a Board or Board Committee (esp. Audit Committee) meeting scheduled internally more than a week before and less than a week before.
10. What are the voting rules for people with bisected property? It seems every year we have a family that wants to vote in both districts.
11. What is the last day Small Claim Assessment Review (SCARs) can be submitted to a school district.

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12. In the case of resolutions approved at the Reorg meeting that authorizes for the school year the President and/or VP or Superintendent to appoint (an IHO) or sign agreements/contracts related to Superintendent Hearings, health contracts for resident or non-resident, should the C distribute these agreements to the entire Board as they come up during the year? Is it sufficient for the Board Pres or Supt. to report to the full Board? The rationale for the blanket resolutions is to not require each contract to be approved individually at scheduled Board meetings throughout the year or make it necessary to call for a special meeting if timing is an issue. Health contracts and special ed tuition contracts, particularly, have not come to the DC as a batch but in bits and pieces during the year? What is required or what are the best practices for DCs in such instances.
13. Anything new on budget votes.

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Questions from You

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14. Generic responses to Regionalization questions.
15. Anything new on budget votes
16. What specific items require a legal notice in a newspaper (i.e., Code of Conduct, Safety Plan, etc.)
17. A few districts in our area have been cited by the DOJ for not translating all budget presentations (presented at Board meetings - Budget Presentation followed by the Budget Hearing) into Spanish, in addition to the translated budget notices and budget newsletter. What are the DOJ requirements around translating documents into Spanish.

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