

Constitutional, Rule & Statutory Provisions Pertaining to Openness

New York State Constitution, Article III, §10.

Each house of the legislature shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

Senate Rule XI, §1. Open doors.

The doors of the Senate shall be kept open, except when the public welfare shall require secrecy.

Senate Rule V, §5d.

The Secretary of the Senate shall, to the extent practicable, use the Internet and other electronic media to provide access to the public policy debates, decision-making process and legislative records of the Senate.

Senate Rule V, §7.

The Official Stenographer or designee shall attend every session of the Senate and take stenographic notes of the debates of the Senate. He or she shall make a stenographic record of the proceedings and make copies available to the Secretary of the Senate. In addition, the Official Stenographer shall be responsible, under the direction of the Secretary, for making a stenographic record of public hearings at the request of the Standing Committee Chair or appointed officer and make copies available to the Committee Chair and the Secretary.

Senate Rule VI, §1.

a. The Journal. The Senate shall keep a journal of its proceedings and publish the same, except such parts as may require secrecy. The legislative and executive proceedings of the Senate shall each be recorded in a separate journal.

b. Video of Senate proceedings. The Senate shall video record its proceedings and make such video available through the Senate web site.

Senate Rule VIII, §3. Open Meetings of Standing Committees.

a. (1) Standing committees shall hold regular meetings at such time and on such day as scheduled by the Temporary President in consultation with the chair and Independent Democratic Conference Leader and such schedule shall be published one week in advance of the date of such meeting and shall be posted on the Senate committee board. The attendance of the members of the committee shall be recorded at each meeting, and a copy of such report shall be filed with the Journal Clerk of the Senate and made available to the public. Each chair of a standing committee shall to the extent practicable, no later than 3 p.m. the Thursday preceding the regular meeting, furnish to the Conference Leaders, and make available to each member of such committee, a copy of the agenda of such regular meeting together with a copy of the introducer's memorandum for each bill listed on such agenda for such regular meeting. In addition, copies of such agenda for such regular meeting shall be made available to representatives of the news media and to the general public. However, in case of necessity, the chair with consent of the ranking Democratic Conference member may add no more than four items on the agenda or delete items on the agenda up to 24 hours in advance of the scheduled meeting and members shall be notified of such additions or deletions. Each standing committee chair shall decide all procedural issues which arise during meetings of standing committees.

(2) Standing committees may hold special meetings in case of necessity upon the call of the chair when the announcement is made from the floor during session, or the ranking Democratic Conference member of the committee consents thereto, or upon the call of a majority of all the members thereof, entry of which fact shall be made on the records of the committee and announced by the Secretary of the Senate.

(3) All meetings of committees shall be open to authorized representatives of the news media and the general public as observers.

(4) All meetings of committees shall be recorded by video and to the extent practicable webcast live. Video of all committee meetings shall be made available on the Senate website and updated daily.

(5) Upon the personal vote of a majority of all the members of a committee, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a committee may conduct an executive session of which only members of such committee are present for the following enunciated purposes provided, however, that no action by formal vote shall be taken to appropriate public monies:...

(6) Attendance at an executive session shall be permitted to any member of the committee and any other persons authorized by the committee.

b. (1) Minutes shall be taken at all open meetings of committees which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

(2) Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary shall not include any matter which is not required to be made public by "the freedom of information law" as added by Article six of the Public Officers Law.

(3) Minutes of meetings of all committees shall be available to the public in accordance with the provisions of Article six of the Public Officers Law, "the freedom of information law", and at such time and place as prescribed by the Temporary President in consultation with the leader of the Independent Democratic Conference, provided, however, that minutes for executive session meetings shall be available to the public within one week from the date of such executive session.

c. The provisions of this section except paragraph three of subdivision a, and subdivision b shall not apply to the Committee on Rules.

d. Committee presentations. The chair of a committee may invite interested persons to offer a presentation for a given amount of time on a bill on the meeting agenda with notice provided to the ranking Democratic Conference member no less than 72 hours in advance. Where a committee chair makes such an invitation, the ranking member shall be afforded an equal number of speakers who may speak for an equal amount of time. In addition, the ranker, without consent of the chair, shall be able to schedule 3 committee presentations with notice provided to the chair at least 72 hours in advance. The chair shall be afforded an equal number of speakers who may speak for an equal amount of time.

...

Senate Rule VIII, §4. Hearings.

a. Committee hearings. Chairs of standing committees may call public hearings to permit interested persons, groups or organizations the opportunity to testify orally or in writing on legislation or issues pending before such standing committee. Chairs are encouraged to hold public hearings on legislation of important public interest, where, outside of the budget, significant public money is allocated, broad conduct is regulated or where the proposal has a broad public impact. Chairs may request that the Official Stenographer make a stenographic record of a public hearing. Official hearings may be conducted in accordance with procedure established by law. No committee may take testimony at a hearing

unless at least two of its members are present at such hearing. Prior notice of all public hearings shall be filed by the chair or his or her designee with The Legislative Bill Drafting Commission and the Secretary of the Senate and such notice shall contain information as to subject matter, date and place.

b. Public forums. Notwithstanding the public hearings conducted by standing committees, any Senator may convene a public forum on proposed or pending legislation within the jurisdiction of a committee upon which he or she is a member, provided that any charge incurred attendant to such forum be borne by said Senator or his or her party conference. Prior notice of such forum shall be filed with the chair of the committee.

c. Committee oversight function. Each standing committee is required to conduct oversight of the administration of laws and programs by agencies within its jurisdiction.

d. Each standing committee is required to file with the secretary of the senate an annual report, detailing its legislative and oversight activities. Such report shall be posted to the Senate web site.

e. Petition for a public hearing on a bill. By a petition of one-third of the members assigned to a committee rounded up to the nearest whole number, a public hearing shall be scheduled on a specific bill or number of bills within the jurisdiction of a committee, unless the majority of members of the committee reject such petition. ...

f. Hearings of standing committees shall be video recorded and to the extent practicable webcast live. Video of such hearing shall be posted to the Senate web site within 24 hours.

Senate Rule VIII, §5. Reports.

a. No committee shall vote to report a bill or other matter unless a majority of all the members thereof vote in favor of such report. Each report of a committee upon a bill shall have the vote of each Senator attached thereto and such report and vote shall be available for public inspection. ...

Senate Rule VIII, §7. Finance Committee

...

The Finance Committee shall keep and maintain a file containing all bills requiring fiscal notes and the notes appertaining thereto, which shall be available to Senators and officers of the Senate, accredited representatives of the press, and other responsible persons having a legitimate interest therein.

Senate Rule IX, §6. Final passage.

b. ...Upon each roll call vote, the Secretary shall announce the names of the Senators voting in the negative and the names of the Senators who were absent. Such roll calls shall be available for public inspection upon request in the office of the Journal Clerk. ...

Senate Rule XV. Freedom of Information.

§1. a. Publication of records relating to Senate legislative and administrative records. Recognizing that legislative records available by request under the "freedom of information law" are of important public interest, the Senate shall make available through a searchable and sortable database on the Senate website: records of committees, agendas, votes, minutes, reports, attendance, fiscal notes, and records of the chamber including, active lists, votes, transcripts, calendars, the Senate payroll report and expenditure reports.

b. Furthermore all such records listed in subdivision a shall be available for public inspection and copying in accordance with the provisions of Article 6 of the Public Officers Law, "the freedom of information law."

c. The Secretary of the Senate shall be the repository for all rules and regulations regarding public inspection and copying of Senate records. Such rules and regulations shall pertain to the times and places such records are available, the persons from whom such records may be obtained, the fees for copies of such records and the procedures to be followed.

d. Nothing in this section shall be construed to increase the legislative requirements set forth in subdivision 2 or 3 of section 88 of the public officers law.

Assembly Rule II, §1. Stenographer.

It shall be the duty of the Stenographer of the Assembly to be present at every session of the House. A daily stenographic record of the proceedings of the House shall be made and copies thereof shall be available to the public, at a place designated by the Speaker, within ten days following the date upon which the proceedings took place.

Assembly Rule III, §2.

...A copy of each bill shall be available to the public.

Assembly Rule IV, §2. Meetings of standing committees.

b. Each chairperson of a standing committee shall, by the Thursday of the week preceding, furnish to the Speaker, the Majority and Minority Leaders, and make available to each member of such committee, a copy of the agenda of all meetings scheduled for the following week, together with a copy of the introducer's memorandum for each bill listed on such agenda. Further, each chairperson shall furnish to the Speaker, the Majority and Minority Leaders and to the ranking minority member of such committee, a list of all bills referred to such committee to date together with the above agenda and memoranda. In addition, copies of such agenda shall be made available not later than such Thursday to representatives of the news media and to the general public by the filing thereof with the Legislative Library and the Assembly Public Information Office. The notice provisions of this subdivision and of subdivision c shall not apply to the Committee on Rules. Nothing contained in this subdivision shall be deemed to waive any of the provisions of article seven of the Public Officers Law known as the "Open Meetings Law".

d. All standing committee meetings shall be open to representatives of the news media and general public, except that the committee, upon a two-thirds vote of the members of the committee present or upon a majority vote of the total membership of the committee, whichever is the greater, may hold an executive session at which only members of such committee shall be in attendance. The subjects to be acted upon at the executive session shall be limited to the subjects enumerated in section one hundred five of the Public Officers Law. No bill shall be voted upon at such executive session....

e. At the conclusion of a committee meeting the committee clerk of such committee shall deliver to the Office of Journal Operations a roll call on each of the bills considered by the committee and on each vote to hold an executive session indicating the attendance of the members and the ayes and nays. Such roll call shall be reproduced not later than 24 hours after transmittal to such Office and shall be made available for inspection by the general public and representatives of the news media in the Assembly Public Information Office.

Assembly Rule IV, §3. Sub-committees.

... Meetings of sub-committees shall be subject to the provisions of article seven of the Public Officers Law known as the "Open Meetings Law".

Assembly Rule IV, §4. Hearings.

a. During each legislative session, chairpersons of standing committees may call public hearings to permit interested persons, groups or organizations the

opportunity to testify orally or in writing on legislation or other matters pending before such standing committee provided, however, that each chairperson shall call such public hearings upon a petition signed by a majority of the members of the committee.

Consistent with the provisions of subdivision d of section one of Rule IV hereof, the chairperson of each standing committee shall call at least one public hearing after the adoption of the state budget regarding the implementation and administration of programs of departments, agencies, divisions, authorities, boards, commissions, public benefit corporations and other entities within the jurisdiction of such committee. The purpose of such public hearing shall include, but not be limited to, the impact, if any, of the state budget on the implementation and administration of the programs within such entities' jurisdiction.

Other public hearings may be called by committee chairpersons with prior consent of the Speaker and in accordance with procedure established by law.

Each chairperson shall prepare a schedule setting forth the date and place for hearings and the subject matter to be considered thereat. Copies of such schedule shall be made available to the general public and representatives of the news media at least seven days prior to the date of such hearing and filed with the Assembly Public Information Office.

Assembly Rule IV, §12. Assembly Committee on Conference Committees.

...Meetings of the Assembly Committee on Conference Committees shall be subject to the provisions of article seven of the Public Officers Law known as the "Open Meetings Law".

Assembly Rule V, §5. Consideration of bills.

(2) No bill shall be considered by a standing committee unless the final printed copy of the bill has been available to each member of the committee for at least seven days and copies thereof have been available to the general public and representatives of the news media for at least such period of time.

Assembly Rule V. §2. Voting.

e. Copies of all roll calls shall be made available to the Majority and Minority Leaders and representatives of the news media within thirty minutes after completion thereof and, as soon as practicable thereafter, shall be made available for public inspection at a place designated by the Speaker.

Assembly Rule VIII: Public Access to Records

§1. Intent. It is the intent of the Assembly that central administrative records maintained by the Assembly be governed by the same presumption of disclosure which governs access to executive agency records, with similar enumerated exceptions.

§2. Disclosure policy. a. In addition to any records required to be made available pursuant to the provisions of section eighty-eight of the public officers law and the rules and regulations promulgated thereunder, all other existing records maintained by the Assembly shall be available for public inspection and copying, except that the Assembly may deny access to records or portions thereof that..."

§3. Public information office. There shall be an Assembly Public Information Office to provide and disseminate information to the media and to the general public in accordance with the provisions of the "Freedom of Information Law" and this rule.

Public Officers Law, Article VI (Freedom of Information Law – FOIL)

§84. Legislative declaration.

The legislature hereby finds that a free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. The more open a government is with its citizenry, the greater the understanding and participation of the public in government.

As state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve, and with the resultant increase in revenues and expenditures, it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible.

The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.

The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.

§88. Access to state legislative records.

1. The temporary president of the senate and the speaker of the assembly shall promulgate rules and regulations for their respective houses in conformity with the provisions of this article, pertaining to the availability, location

and nature of records...

2. The state legislature shall, in accordance with its published rules, make available for public inspection and copying:

(a) bills and amendments thereto, fiscal notes, introducers' bill memoranda, resolutions and amendments thereto, and index records;

(b) messages received from the governor or the other house of the legislature, and home rule messages;

(c) legislative notification of the proposed adoption of rules by an agency;

(d) transcripts or minutes, if prepared, and journal records of public sessions including meetings of committees and subcommittees and public hearings, with the records of attendance of members thereat and records of any votes taken;

(e) internal or external audits and statistical or factual tabulations of, or with respect to, material otherwise available for public inspection and copying pursuant to this section or any other applicable provision of law;

(f) administrative staff manuals and instructions to staff that affect members of the public;

(g) final reports and formal opinions submitted to the legislature;

(h) final reports or recommendations and minority or dissenting reports and opinions of members of committees, subcommittees, or commissions of the legislature;

(i) any other files, records, papers or documents required by law to be made available for public inspection and copying.

(j) external audits conducted pursuant to section ninety-two of the legislative law and schedules issued pursuant to subdivision two of section ninety of the legislative law.

3. Each house shall maintain and make available for public inspection and copying:

(a) a record of votes of each member in every session and every committee and subcommittee meeting in which the member votes;

(b) a record setting forth the name, public office address, title, and salary of every officer or employee; and

(c) a current list, reasonably detailed, by subject matter of any records required to be made available for public inspection and copying pursuant to this section.

Public Officers Law, Article VII (Open Meetings Law)

§100. 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 commonweal will prosper and enable the governmental process to operate for the benefit of those who created it.

§103. Open meetings and executive sessions.

(a) Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with section ninety-five of this article.

(b) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.

(c) A public body that uses videoconferencing to conduct its meetings shall provide an opportunity for the public to attend, listen and observe at any site at which a member participates.

(d) Public bodies shall make or cause to be made 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.

(d) 1. 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. As used herein the term "broadcast" shall also include the transmission of signals by cable.

...

§104. Public notice.

1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.

2. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.

...

§105. Conduct of executive sessions.

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:...

§106. Minutes.

1. Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

2. Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary need not include any matter which is not required to be made public by the freedom of information law as added by article six of this chapter.

3. Minutes of meetings of all public bodies shall be available to the public in accordance with the provisions of the freedom of information law within two weeks from the date of such meeting except that minutes taken pursuant to subdivision two hereof shall be available to the public within one week from the date of the executive session.

§107. Enforcement.

1. Any aggrieved person shall have standing to enforce the provisions of this article against a public body by the commencement of a proceeding pursuant to article seventy-eight of the civil practice law and rules, or an action for declaratory judgment and injunctive relief. In any such action or proceeding, if a court determines that a public body failed to comply with this article, the court shall have the power, in its discretion, upon good cause shown, to declare that the public body violated this article and/or declare the action taken in relation to such violation void, in whole or in part, without prejudice to reconsideration in compliance with this article. If the court determines that a public body has violated this article, the court may require the members of the public body to participate in a training session concerning the obligations imposed by this article conducted by

the staff of the committee on open government.

An unintentional failure to fully comply with the notice provisions required by this article shall not alone be grounds for invalidating any action taken at a meeting of a public body. The provisions of this article shall not affect the validity of the authorization, acquisition, execution or disposition of a bond issue or notes.

2. In any proceeding brought pursuant to this section, costs and reasonable attorney fees may be awarded by the court, in its discretion, to the successful party. If a court determines that a vote was taken in material violation of this article, or that substantial deliberations relating thereto occurred in private prior to such vote, the court shall award costs and reasonable attorney's fees to the successful petitioner, unless there was a reasonable basis for a public body to believe that a closed session could properly have been held.

...

§108. Exemptions.

Nothing contained in this article shall be construed as extending the provisions hereof to:

1. judicial or quasi-judicial proceedings, except proceedings of the public service commission and zoning boards of appeals;
2. a. deliberations of political committees, conferences and caucuses.

b. for purposes of this section, the deliberations of political committees, conferences and caucuses means a private meeting of members of the senate or assembly of the state of New York, or of the legislative body of a county, city, town or village, who are members or adherents of the same political party, without regard to (i) the subject matter under discussion, including discussions of public business, (ii) the majority or minority status of such political committees, conferences and caucuses or (iii) whether such political committees, conferences and caucuses invite staff or guests to participate in their deliberations; and
3. any matter made confidential by federal or state law.