

Center for Judicial Accountability, Inc. (CJA)

From: Oneill, Kristin (DOS) <Kristin.ONeill@dos.ny.gov>
Sent: Monday, September 30, 2019 2:46 PM
To: Center for Judicial Accountability, Inc. (CJA)
Subject: RE: The Unconstitutionality of Public Officers Law §108.2(b) -- & the Test of Candidates seeking appointment as the New Executive Director of the NYS Committee on Open Government

The staff of the Committee on Open Government is authorized to issue advisory opinions. The ensuing staff advisory opinion is based solely upon the information presented in your correspondence, except as otherwise indicated.

Dear Ms. Sassower:

I am writing in response to your request for an advisory opinion regarding Section 108 ("Exemptions") of the Open Meetings Law (OML).

You have asked the Committee to render an advisory opinion "as to whether, pursuant to Article III, §10 of the New York State Constitution, Public Officers Law §108.2(b) is unconstitutional by its exemption of Senate and Assembly party conferences from the Open Meetings Law."

Section 109 of the OML states:

"[t]he committee on open government, created by paragraph (a) of subdivision one of section eighty-nine of this chapter [Freedom of Information Law], shall issue advisory opinions from time to time as, in its discretion, may be required to inform public bodies and persons of the interpretations of the provisions of the open meetings law."

The Committee is not authorized to issue advisory opinions regarding the constitutionality of any provision of law. Further, we decline to request a formal legal opinion from the Office of the Attorney General. If you wish to challenge the constitutionality of a statute, the involvement of the Office of the Attorney General will be governed by Executive Law §71.

I regret we are unable to be of assistance in this matter.

Sincerely,

Kristin O'Neill

Assistant Director, Committee on Open Government

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Kristin O'Neill
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