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S-495

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UNIVERSITY CIVIL SERVICE SYSTEM  
Personnel Directors Advisory Committee  
Public Meetings

Honorable James B. Holderman  
Executive Director  
Board of Higher Education  
500 Reisch Building  
119 South Fifth Street  
Springfield, Illinois 62701

Dear Mr. Holderman:

I have your letter of April 24, 1972, which requests my opinion on the application of "An Act in Relation to Meetings" (Ill. Rev. Stat. 1971, ch. 102, pars. 41 to 44 inclusive, hereafter Public Meetings Act) to the meetings of the Personnel Directors Advisory Committee to the Merit Board of the University Civil Service System.

The material accompanying your letter indicates that the Personnel Directors Advisory Committee is a part of the University Civil Service System of Illinois. (Ill. Rev. Stat. 1971, ch. 24 1/2, pars. 38b1 to 38m inclusive.) The Committee was created by the Merit Board of the System pursuant to its rule making power. It is composed of the Personnel Directors of all of the member institutions. The Committee's function is to advise the Merit Board on all matters

James B. Holderman - 2.

pertinent to the University Civil Service System. Regular meetings of the Committee are held on the first Thursday of each month.

Your specific questions are:

1. Is the Personnel Directors Advisory Committee exempt from the Public Meetings Act?
2. If some areas of the Committee's meetings are properly 'closed,' then is the entire meeting closed?
3. Should all or part of the Personnel Directors Advisory Committee meetings be open, what avenues of redress are available for remedy?

The purpose of the Public Meetings Act is to assure that public business will be openly conducted. The legislative purpose is set forth in Section 1 of that Act.

"It is the public policy of this State that the public commissions, committees, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of this Act that their actions be taken openly and that their deliberations be conducted openly." (Emphasis supplied)  
Ill. Rev. Stat. 1971, ch. 102, par. 41.

The Act provides for the implementation of this policy by requiring that all tax supported bodies hold public

James B. Holderman - 3.

meetings. Section 2 of the Act provides:

"All meetings of any legislative executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, shall be public meetings . . ." (Emphasis supplied) Ill. Rev. Stat. 1971, ch. 102, par. 42.

In considering this Act the Appellate Court said, "The language of this statute is unequivocal and no guidelines we might lay down could make for more clarity than already exists."

(Johnson v. Board of Education of Chicago, 79 Ill. App.2d 22, 25.) The legislature has clearly stated its desire that the meetings of tax supported bodies be public meetings unless the legislature has provided a specific exception. The opinions of my office have followed this interpretation. 1969 Atty. Gen. Op. 131; 1970 Atty. Gen. Op. 185; 1971 Atty. Gen. Op. \_\_\_\_\_, S 298 issued May 24, 1971.

James B. Holderman - 4.

Section 2 of the Public Meetings Act provides a number of exceptions to the open meeting rule. (Ill. Rev. Stat. 1971, ch. 102, par. 42.) The following summarizes the statutory exceptions:

- a) collective negotiating matters between public employers and their employees or representatives,
- b) deliberations for decisions of the Illinois Commerce Commission and the Illinois Parole and Pardon Board,
- c) executive sessions of the Illinois Crime Investigating Commission where investigations are to be discussed,
- d) meetings where the acquisition of real property is being considered, or where a pending court proceeding against or on behalf of the particular governmental unit is being considered, but no other portion of such meetings may be closed to the public,
- e) grand and petit jury sessions,
- f) where the Constitution provides that a governmental unit can hold secret meetings,
- g) meetings at public institutions of higher education relating to campus security or to the safety of staff and students,

- h) meetings of the General Assembly or committees and commissions thereof,
- i) closed sessions to consider information regarding appointment, employment or dismissal of an employee or officer or to hear testimony on a complaint lodged against an employee or officer to determine its validity, but no final action may be taken at a closed session,
- j) closed sessions where Federal regulation requires it,
- k) closed sessions of a school board or any committee thereof for hearing student disciplinary cases as for discussing matters relating to individual students in special education programs as defined by Article 14 of The School Code (Ill. Rev. Stat. 1971, ch. 122, par. 14-1 et seq.),
- l) closed sessions of an advisory committee appointed to provide a public body with professional consultation on matters germane to its field of competence to consider matters of professional ethics or performance,
- m) closed sessions to consider the appointment of a member to fill a vacancy on that body, but no final action may be taken at a closed session, and
- n) closed sessions pursuant to ordinance of a municipality for the conciliation

James B. Holderman - 6.

of complaints of discrimination under Section 11-11.1-1 of the Illinois Municipal Code. Ill. Rev. Stat. 1971, ch. 22, par. 11-11.1-1.

The Personnel Directors Advisory Committee is a committee of a tax supported public body of the State, the University Civil Service Merit Board. It is a rule of statutory construction that the expression of certain exceptions in a statute is the exclusion of all others. (City Savings Association v. International Guaranty and Insurance Company, 17 Ill. 2d 609.) Unless the meetings of the Personnel Directors Advisory Committee can be brought under one of the foregoing exceptions, it would be subject to the Public Meetings Act.

Most of the exceptions are clearly inapplicable to the Personnel Directors Advisory Committee. Only those lettered i and l raise any questions. The University Civil Service System was created to provide a uniform program of personnel administration for the various nonacademic employees of the several State colleges and universities.

James B. Holderman 7.

(Heap v. University Civil Service Merit Board, 83 Ill. App.2d 350.) The Merit Board created by the system supervises the administration of the statutory provisions. (Ill. Rev. Stat. 1971, ch. 24 1/2, par. 38b3.) It does not have the authority to make employment decisions for the individual member institutions. (Ill. Rev. Stat. 1971, ch. 24 1/2, par. 38b7.) The Merit Board does not act as a collective bargaining agent for the member institutions; the employers are authorized to so act. (Ill. Rev. Stat. 1971, ch. 24 1/2, par. 38b3, subpar. (3).) The Personnel Advisory Committee of the Merit Board has no power to make employment decisions nor to undertake collective bargaining. They would, therefore, not be covered by the exceptions to the Public Meetings Act which allow closed sessions to discuss employment decisions or collective bargaining negotiations. You should also note that the University Civil Service System Act (Ill. Rev. Stat. 1971, ch. 24 1/2, pars. 38b1 to 38m inclusive) contains no statutory provision allowing the Merit Board to hold confidential meetings.

The exception for Advisory Committees appointed

to advise public bodies on matters of professional ethics and performance is also inapplicable to the Personnel Directors Advisory Committee. The Department of Registration and Education has general supervisory power of the statutes providing for licensing of professionals who work in Illinois. (Ill. Rev. Stat. 1971, ch. 127, pars. 58.01 to 58.11 inclusive.) The Department's power includes examinations, licensing and revocation of license; it may only be exercised pursuant to the written recommendation of a committee made up of members of that profession. (Ill. Rev. Stat. 1971, ch. 127, par. 60 to 60h inclusive.) Most of the licensing statutes create an Advisory Board or group whose purpose is to advise on matters of professional ethics and performance. (i.e. architects, Ill. Rev. Stat. 1971, ch. 10 1/2, par. 4a; dentists, Ill. Rev. Stat. 1971, ch. 91, par. 59a; public accountants, Ill. Rev. Stat. 1971, ch. 110 1/2, par. 38; veterinarian, Ill. Rev. Stat. 1971, ch. 91, par. 124.8. See also nurses, Ill. Rev. Stat. 1971, ch. 91, par. 35.38 and pharmacists, Ill. Rev. Stat. 1971, ch. 91, par. 55.51.)



James B. Holderman - 9.

It is to these groups that the exception for closed meetings of professional advisory groups applies. The purpose of this exception is to protect individuals who are subject to investigation for their professional conduct. Information of these investigations should not become public knowledge unless disciplinary action is taken against them. In this respect the exception is similar to the exceptions for public bodies discussing student discipline or employment decisions.

Under the above analysis it would appear that the Personnel Directors Advisory Committee is a committee of a public agency supported by tax revenue which does not fall within any of the exceptions of the Public Meetings Act. It would, therefore, be required to make its meetings open to the public. In answer to your first question, it is my opinion that the Personnel Directors Advisory Committee is not exempt from the Public Meetings Act.

A closed meeting can only be held pursuant to one of the statutory exceptions to the Public Meetings Act.

James E. Holderman - 10.

As discussed above, none of the exceptions to the Public Meetings Act can be applied to the Personnel Directors Advisory Committee. Its meetings must be open. I might also point out that the exceptions to the Public Meetings Act are mostly limited ones which allow a public body to hold a closed meeting for some limited purpose. Public bodies which fall within one of the exceptions may hold closed sessions only for the purpose of transacting the business authorized by that exception. A public body would not be allowed to close its entire meeting because one item on the agenda was properly confidential. The adoption of such an interpretation of the Public Meetings Act would frustrate its legislative purpose. Therefore, in answer to your second question, it is my opinion that the Public Meetings Act does not provide any exception which would allow the Personnel Directors Advisory Committee to close a portion of its meetings to the public. Even if a portion of the committee's meeting were properly closed, the entire meeting could not be closed to the public.

James B. Holderman - 11.

The Public Meetings Act contains two provisions to insure compliance with its terms. Section 3 provides that a court may issue a writ of mandamus and make whatever other orders are necessary to obtain compliance. (Ill. Rev. Stat. 1971, ch. 102, par. 43.) Section 4 provides that persons violating the Public Meetings Act may be punished by fines or imprisonment or both for violating its terms. (Ill. Rev. Stat. 1971, ch. 102, par. 44.) Therefore, in answer to your third question, it is my opinion that the terms of the Public Meetings Act provide both civil and criminal remedies to insure compliance with its terms.

This opinion is not to be construed as a comment upon the rights, if any, that a member of the public has to participate in a meeting.

Yours very truly,

A T T O R N E Y   G E N E R A L