

**Transparency Task Force**  
**Review of Board of Regents Public Information Practices**  
**Thomas Evans, General Counsel Board of Regents**  
**April 5, 2013**

**Board of Regents Public Meetings Practices**

**Public notice** - Notice for all public meetings is provided at least 24 hours prior to the commencement of the meeting unless, for good cause 24 hours notice is impossible or impractical, in which case as much notice as is reasonably possible is given.

Notice Content – Public notice includes:

- Time;
- Date;
- Place; and
- Tentative agenda. Iowa Code section 21.4(1)

**Posting of Notice** - Notice for all public meetings of the Board of Regents are posted on the Regents web site.

News media who have requested to be advised of Public Meetings are sent timely notice of the Board of Regents meeting.

Future dates for all scheduled Board of Regents meeting are posted on the Regents Web site.

**Meeting Locations** – Meeting are held in locations throughout the State of Iowa as determined by the Board of Regents. See § Iowa Code 262.8

State law (Iowa Code § 262.9.18 and 681 IAC 9.6(1)) requires the Board to:

- Make the final decision on tuition and mandatory fees for the next academic year at a regular meeting, which is to be held in one of the three university cities but not held during a university holiday or break.

**Access to Meetings** – The public is invited to attend all public meetings of the Board of Regents.

Additionally, all open meetings of the Board of Regents, including electronic meetings are live audio streamed.

**Frequency of Meetings** – Generally meetings are held every six weeks. Iowa Code requires that the Board of Regents hold meetings at least 4 times per year. See Iowa Code § 262.8.

**Special Meetings** – Periodically special meetings are called by the Board, by the president of the Board, or by the executive director of the Board upon written request of any five members of the Board. See Iowa Code § 262.8.

**Electronic Meetings** - The Board periodically conducts a meeting by electronic means as provided by law. Electronic meetings are allowed only when meeting in person is impossible or impractical. See Iowa Code § 21.8. If an electronic meeting is necessary the following requirements must be met.

### **Conduct of Meetings**

**Quorum** - Six members of the Board constitute a quorum. Iowa Code § 17A.2(1). The number of votes required to constitute a majority for a given purpose shall be a majority of those present, assuming a quorum, except where otherwise required by statute.

**Roberts Rules of Order** -The Board conducts its meetings according to Robert's Rules of Order.

**Minutes** - The Board and every committee governed by Iowa Code Chapter 21 keeps minutes of each of its meetings showing the date, time, place, members present, and the action taken at each meeting. The minutes show the results of each vote taken, and the vote of each member present is made public at the open session.

The minutes are public records open to public inspection and are posted on the Regents web site. The minutes include a link to the audio of the meeting.

### **Presentations to the Board**

Any person may request to make a written or oral presentation to the Board. All such requests must be in writing and state the specific subject to be discussed and the reasons why a personal appearance is necessary.

Requests for hearing must be accompanied by any supporting documentation that the petitioner wishes the Board to consider. If a request is granted, fifteen copies of each document to be considered must be submitted to the Board Office at least seven days prior to the Board meeting.

Students, faculty, and other employees of Regent institutions route their requests through the head of the institution concerned. The institutional head then forwards the request, with comments, to the executive director of the Board.

The Executive Director determines, in his/her discretion, whether a request is to be granted and whether such a request for oral presentation is relevant to the business before the Board.

### **Hearings Before the Board**

Periodically the Board conducts hearings. As an example, the Board conducts teacher termination hearings for faculty at the Special Schools pursuant to Iowa Code Chapter 279. The hearings are exempt from chapter 21.

The Board may also conduct a contested case hearing pursuant to Iowa Administrative Code section chapter 681-20.

Additionally, students have the right under Iowa Code § 21.5.1(e) to request that the Board conduct a hearing regarding their suspension or expulsion in open session.

### **Closed Session**

The Board of Regents and committees governed by Iowa's open meetings law periodically hold closed session.

Closed sessions are conducted only by affirmative public vote of either two-thirds of the members of the Board or all of the members present at the meeting.

The Board or committee only hold closed sessions to the extent a closed session is necessary for any reason defined in Iowa Code § 21.5 and as permitted by Iowa Code § 20.17(3).

The vote of each Board member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under the law is announced publicly at the open session and entered into the minutes.

**Scope of Discussion** - The Board does not discuss any business during a closed session that does not directly relate to the specific reason announced as justification for the closed session. The Board's General Counsel attends all closed sessions to monitor the discussion for compliance with Chapter 21.

**Final Action** - Final action by the Board on any matter discussed in closed session is taken only in an open session unless some other provision of the Iowa Code expressly permits such actions to be taken in closed session.

**Minutes** - The Board and committees keep detailed minutes of all discussions, persons present, and action occurring in a closed session. Additionally, the closed session is recorded electronically.

**Minutes Are Confidential** - The detailed minutes and tape recording of all closed sessions are sealed and not open to public inspection.

The Board keeps the detailed minutes and audio recording of any closed session for a period of at least one year from the date of the meeting. However, for the minutes and tape recording of a session closed to discuss the purchase or sale of real estate are available for public examination when the transaction discussed is completed.

The minutes of the regular Board meeting reflect the roll call vote for the closed session and the time at which the closed session began and ended.

**Reasons for Closed Sessions** - The primary reasons for the Board entering into a closed session include the following:

- To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
- To discuss collective bargaining strategy as allowed by Iowa Code section 20.17(3).
- To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.
- To discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property.

## **BOARD OF REGENTS OPEN RECORDS PRACTICES**

Anyone is welcome to file a request for information with the Board of Regents.

Requests for public records may be made by telephone, e-mail, in person, or in writing. No special form or special wording is required.

Individuals requesting public records are not required to say why they are requesting records. Likewise, they are generally not required to identify themselves. However, persons who do not wish to identify themselves will need to make arrangements to pay fees (if required) and to pick up records once they have been compiled.

The Board's web site includes contact information for making request for information.

Public record requests at the Board of Regents are handled by Sheila Doyle Koppin Communications Director. If a member of the Board of Regents or Board staff receive a request, they are instructed to forward it to Sheila Doyle Koppin.

After the request is received, it is acknowledged by the Communications Director. If there are any questions regarding the request, the Communications Director may request a clarification of the request.

The Communications Director works with the Board's General Counsel and others to respond to the request.

Typically, the request is forwarded to Regents and Board staff to who may have records that are responsive to the request. They are asked to search their records and forward any that are responsive to the General Counsel.

The General Counsel reviews all documents to insure that they do not contain confidential information that should not be released.

### **Length of time to Process a Request**

Many simple requests are completed immediately or within a day or two. However, Iowa law allows the Board to take up to 10 working days or in some cases, up to 20 calendar days, to respond to public records requests. This includes time to determine whether a public record is also a confidential record.

Iowa law states that public records should be made available during customary office hours.

## **Volume**

In FY12 the Board Office responded to 49 requests for records. So far in FY13 the Board Office has responded to 19 requests for public records.

## **Confidential Records**

Some documents kept by the Board of Regents are not subject to public release. In some cases, these documents can be disclosed following the redaction of the information that is confidential. Iowa Code Section 22.7 has a list of documents that are confidential.

The primary exemptions that apply to Board of Regents documents include:

- Personal information in records regarding a student
- Personal information in confidential personnel records of employees
- Health care records
- Attorney work product
- Trade secrets
- Records containing information from people outside of government, if disclosure would discourage them from providing information that is not required by law
- Certain financial records
- Reports provided to government agencies that contain information that would give advantage to competitors and serve no public purpose

## **Records Request Denial**

If a request is denied in whole or in part the Board notifies the requester in a letter or e-mail that explains the reasons for the denial, including reference the appropriate section of the Iowa public records law.

## **Fees for Obtaining Public Records**

The Iowa Code allows governmental bodies to charge a "reasonable fee" for expenses associated with retrieving, copying, and supervising the examination of public records, but those fees can only be based on actual costs.

Governmental bodies may not charge a fee simply to examine a record; however, the governmental agency may charge a fee if the volume of records to be examined is large enough to require supervision to maintain the integrity of the records.

The Board of Regents fees are as follows:

- \$30/hour for actual time spent retrieving and copying documents and/or for supervising the examination of public records. There is no charge if the time spent on those tasks is less than one hour.
- 25 cents per page for copies if more than 20 pages must be copied to complete a request.
- There is a minimum charge of \$75 for records that must be extracted from computer databases. For requests that take more than one hour, the fee is \$75/hour.

As a general rule, the Board of Regents requires advance payment of the estimated fee.

### **Public Records Available Online**

In keeping with the spirit of openness and accountability, the Board offers immediate access to information through its web site.