



Department
of State

NEWS

For Immediate Release:

September 9, 2020

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**New York State Committee on Open Government
to Meet on Thursday, September 17 at 1:00PM**

Members of the New York State Committee on Open Government will hold a meeting on **Thursday, September 17, 2020**. In accordance with the provisions of the Governor's Executive Order 202.1, the meeting will be held by **WebEx**.

WHO: New York State Committee on Open Government
WHAT: Meeting of the Committee
WHEN: Thursday, September 17, 2020 at 1:00PM.

Web Ex Information

Mobile Devices

<https://meetny.webex.com/meetny/j.php?MTID=mab2c9c7a2c75288e131cc552817e21a8>

Password: 2tqPG5gSBu8

Audio conference information

Local: 1-518-549-0500

Access code: 171 273 1671

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COMMITTEE ON OPEN GOVERNMENT

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
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COMMITTEE MEMBERS

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PETER D. GRIMM
M. JEAN HILL
KATHY HOCHUL
HADLEY HARRIGAN
ROBERT MUJICA, JR.
ROSSANA ROSADO
DAVID A. SCHULZ
STEPHEN B. WATERS

CHAIRPERSON

FRANKLIN H. STONE

EXECUTIVE DIRECTOR

SHOSHANAH BEWLAY

MEETING AGENDA NYS COMMITTEE ON OPEN GOVERNMENT September 17, 2020

1. Approval of Minutes of Last Meeting
2. Report on Recent Activities of Staff
3. Modernization Projects
4. Call for Vote on Proposed Bylaws
5. Annual Report Development
 - a. Strategic Priorities
 - b. Proposed Legislation
6. Other or New Business
7. Adjourn

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MINUTES

MEETING OF NYS COMMITTEE ON OPEN GOVERNMENT HELD BY WEBEX PURSUANT TO EO 202.1

June 24, 2020, 1:30 p.m.

Members Present by Videoconference:

James Leary (Secretary of State), William Brusco (OGS), Joel Lombardi (DOB), Peter Grimm, Franklin Stone, David Schulz, Jeff Lewis (Lt. Governor), Hadley Horrigan, Stephen Waters

Members Not Present:

Jean Hill

Committee Staff Present by Videoconference:

Shoshanah Bewlay, Kristin O'Neill, Candace Watson

Welcome and Roll Call:

Quorum present

Minutes of Prior Meeting:

At the request of the Executive Director, Stephen Waters moved to approve the minutes from the November 25, 2019, meeting and Jim Leary seconded the motion. There were no objections and the minutes were approved.

Agenda Items:

1. Report on Staff Routine Activities: The Executive Director provided a report on activities of the Committee Staff since January 2020, including a breakdown of calls, written correspondence, issuance of formal opinions and trainings provided.
2. New Committee Staff: The Executive Director reported that the Committee has approval to hire an additional attorney when statewide budgetary concerns allow.
3. Modernization Projects: The Executive Director reported that three modernization efforts are in various stages of completion. A new correspondence and appeal tracking system is completed, a new website, web and email domain and landing page are making significant progress, and the possible third-party hosting of Committee advisory opinions is in progress but awaiting hiring of additional staff before further progress can be made.

4. Coordination between Members and Staff: Committee Staff will consult with Committee Members when Staff are asked to provide guidance on a new provision of law or a provision of law on which the Committee has never before opined and on which there is no judicial precedent. Committee Staff will also provide a quarterly report indicating outreach and training that has occurred in the prior quarter, and where possible will seek to provide notice to Committee Members of upcoming training to allow them to be present or attend.
5. Proposal to develop and adopt Bylaws: the Executive Director proposed that the Committee consider the adoption of bylaws to standardize procedures. Multiple Committee Members suggested that this would be a welcome development. The Executive Director will prepare and circulate a draft of the proposed bylaws for Members to consider. A vote will occur at the next scheduled meeting of the Committee.
6. Other and New Business:
 - a. There is currently one vacant Governor's appointee spot on the Committee: the Executive Director will draft a letter to the Governor's Counsel concerning this vacancy and will circulate it to Members for comment.
 - b. The Executive Director recognized the June 12, 2020, repeal of Civil Rights Law § 50-a, an issue that has long interested the Committee.
 - c. Committee Staff received a request for an advisory opinion regarding FOIL obligations with respect to law enforcement disciplinary records in light of the recent repeal of Civil Rights Law § 50-a. Consistent with the policy discussed earlier in the meeting – this is a request for interpretation of new provisions of FOIL in the absence of judicial precedent to guide a decision – Committee Staff will circulate a draft interpretation to Committee Members for their consideration prior to issuance of a formal opinion.
 - d. Franklin Stone suggested that the Committee be prepared to discuss its Annual Report and bring items for consideration for the report to the next scheduled meeting. Multiple Committee Members agreed that the Committee should begin to compile the Annual Report earlier in the year.

Meeting Adjourned

Section I: Name and Purpose

The Committee on Open Government (the “Committee”) is duly constituted pursuant to New York Public Officers Law §§ 89, 93 and 109 to effectuate the purposes described therein.

Section II: Authority, Duties and Powers

The Committee derives all authority and powers from, and is directed to perform all duties in, relevant provisions of the New York Public Officers Law; specifically, the Freedom of Information Law (“FOIL”), Open Meetings Law (“OML”) and Personal Privacy Protection Law (“PPPL”).

Section III: Membership and Designation

Membership in the Committee, and the duration of said Membership, is determined as set forth in Public Officers Law § 89(1)(a). Ex-Officio members of the Committee may designate any other person as their designee who shall have the full authority of such ex-officio member as if such ex-officio member were present him or herself.

In order to assure that all proper designees of any ex-officio member are present, each designee or alternate designee member must have a signed letter on file with the Executive Director of the Committee on Open Government (the “Director”) prior to, or at the time of, any Committee vote, whereby the ex-officio member formally designates the designee. Such designee shall not count toward establishing a quorum and shall not be permitted to vote, nor in the event of a vote shall such designee’s vote be binding, in the event such letter is not on file.

Section IV: Staff and Members

The Executive Director of the Committee is an appointed position and operates as chief of staff for the Committee. The person filling this role serves at the pleasure of and is appointed by the Department of State as Secretariat of the Committee and appointing authority, with the input and advice of the members of the Committee.

The Assistant Director of the Committee is a New York State Civil Service position and is filled by the Department of State as Secretariat of the Committee and appointing authority, with the input and advice of the Executive Director of the Committee.

Any other staff of the Committee shall serve in Civil Service roles and shall be selected by the Executive Director of the Committee, with the advice and input of the Department of State as Secretariat of the Committee.

Members of the Committee shall be appointed and serve as directed in the Public Officers Law. In the event that a member does not attend two consecutive regular meetings of the Committee, the Director shall notify the entity that appointed the member of such fact. Such notification shall be in a form approved by the Committee and shall be a standard form. A change to the standard form shall require a vote of the majority of the members of the Committee.

There shall be no Committee officers. All members of the Committee shall have the equal rights and obligations described in the Public Officers Law. In the event that a majority of the members of the Committee believe that the temporary appointment of an officer for a particular purpose is necessary, the members shall vote on the temporary appointment at a regular meeting of the Committee. The

proposal of a temporary appointment of an officer, including the proposed purpose and duration of the appointment, shall appear on the agenda for such meeting.

Section V: Meeting Procedures

The Director shall call to order every Committee meeting at the time and place established by the Director. The Director shall make all reasonable attempts to accommodate as many Committee members as possible when scheduling such meetings. However, lack of unanimity of agreement regarding any meeting time or place shall not prevent the Director from calling such meeting.

Subject to the ability to convene a quorum of the members of the Committee, the Director shall make best efforts to call no fewer than four meetings per calendar year.

In addition to regularly scheduled meetings, the Director may, if able to convene a quorum of the members of the Committee, call additional meetings for purposes of completing the annual report required by Public Officers Law § 89(1)(b)(vi), or for such other purpose as may be required to discharge the duties of the Committee outlined in relevant statutes.

Quorum: Pursuant to Public Officers Law, the Committee is comprised of eleven members. Pursuant to General Construction Law § 41, a majority of the total membership of the Committee, six duly appointed and serving members, shall constitute a quorum.

Majority: At any meeting having a quorum, any questions that may come before the meeting shall be decided by an affirmative vote of a majority of the whole number of the Committee members. Pursuant to General Construction Law § 41, the words "whole number" shall be construed to mean the total number which the Committee would have were there no vacancies and were none of the members disqualified from acting.

Agenda: The Director shall prepare and present an agenda to the Committee no less than forty-eight (48) hours prior to any regularly scheduled meeting. Such agenda shall include any additional information the Director deems appropriate. The Committee may amend the agenda during the course of such meeting to include additional items for discussion by consent or by a majority vote of those present. In the event of an extraordinary meeting, the Director shall present an agenda to the Committee with as much notice as is practical under the circumstances.

Section VI: Annual Report

As required by Public Officers Law § 89, the Committee shall publish an annual report. The Director shall present to the Committee, not less than thirty (30) days prior to December 15 of each calendar year, a draft report for consideration by the members of the Committee. The Director shall entertain any requests for amendment from Committee members and, when such amendments are affirmatively supported by a majority of the members of the Committee, make such amendments as requested.

Section VII: Certain Coordination Between Staff and Members

To ensure that the opinions of the staff of the Committee accurately reflect the views of the Committee, the Director and staff of the Committee shall consult with Committee members when asked to provide guidance on a new provision of law or a provision of law on which the Committee staff have never before opined and on which there is no judicial precedent. The staff shall propose guidance on such

provision for review by the Committee before issuance of an opinion or guidance thereon. The staff shall not issue such guidance or opinion on such provision if a majority of the Committee members object to the content of the guidance or opinion. In the event that a majority of the members of the Committee oppose a proposed staff opinion, staff shall solicit comments and amendment and shall incorporate such comments and re-propose such guidance until such time as there is no longer majority opposition to such guidance.

DRAFT

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SHOSHANAH BEWLAY

By electronic and First Class mail

[DATE]

[NAME
ADDRESS
EMAIL ADDRESS]

Re: *Committee on Open Government Appointee*

Dear [NAME],

I write to notify you that [NAME OF MEMBER], a member of the Committee on Open Government whom your office appointed, has not attended the last two regularly-scheduled meetings of the Committee. Because we count on the attendance and participation of the members to conduct the business of the Committee, we are asking you, as the appointing authority, to ask your appointee to make every effort to attend Committee meetings. If your appointee is no longer interested in serving on the Committee, please consider making an alternative appointment.

Please do not hesitate to contact me if I may be of any assistance. Thank you for your support of the work of the Committee.

Very truly yours,

Shoshanah Bewlay
Executive Director

SVB/fhs



Committee on
Open Government