



15 September 1998

TO: Academic Deans and Directors
FROM: The University Committee
SUBJECT: Departmental Business and the Open Meetings Law

As you are aware, the Open Meetings Law imposes certain constraints on how public business may be conducted. Departmental and executive committees are among the "governmental bodies" to which the law applies, as are all committees created by these and other "governmental bodies." Further information on the requirements of this law is available through the Office of Administrative Legal Services. That office is currently revising and updating its previous memorandum on the Open Meetings Law and hopes to have that available for the entire campus sometime this academic year.

The conduct of departmental and other unit meetings has grown more complex due to increased demands on faculty time as well as the everyday use of new modes of communication (e.g., electronic mail). This memorandum is simply to alert you to some of the problems that have come to our attention concerning the Open Meetings Law and how we at UW-Madison conduct our everyday business.

Among the areas that could conceivably generate problems are:

-- "Virtual meetings," in which (for example) a chair sends a proposal to the departmental or executive committee and asks for an email ballot. This practice is not in conformance with the Open Meetings Law.

-- Online discussion of departmental or executive committee issues by email, prior to formal meetings of these committees. Such discussion is generally a violation of the Open Meetings Law, although it is perfectly acceptable to use email as a convenient method of distributing information to those who need it (as opposed to back-and-forth discussion of that information in preparation for action at a meeting).

-- Communication of revised motions to committee members, followed by an email ballot. This practice is in violation of the Open Meetings Law, and it has already led to compliance problems on this campus.

These examples certainly do not exhaust the list of possible problems, but they should serve to illustrate the broad scope of applicability of this law and the extent to which electronic communication can cause problems in connection with departmental business if sufficient care is not exercised. Other issues can also be problematic in connection with the law: for example, if some members of a body are permitted to cast ballots after a meeting from which they have been absent, such a vote could possibly be challenged on the grounds that the decision of the body had not been made in the open public meeting. Proxy voting, although it may not raise immediate issues under this law, raises serious questions about the extent to which members are making informed decisions.

If questions or issues arise in the course of your review(s), several sources of help are available. The Office of Administrative Legal Services can help in resolving difficult questions or advising on gray areas that do not seem to be covered by existing policies. The Parliamentarian of the Faculty Senate, Professor Larry E. Larmer, can advise on questions of parliamentary procedure. Questions or issues that still remain can be directed to the Secretary of the Faculty, Mr. David Musolf, who can help to identify ways of resolving these.

We suggest that you and your department chairs review your operating procedures to be sure that future problems with the Open Meetings Law do not inadvertently arise.