

Gov. Hochul Signs Open Meetings Law Amendments

On October 19, 2021 Gov. Kathy Hochul signed legislation amending Public Officers Law § 103 to require public bodies to make records that will be discussed at an upcoming meeting available to the public upon request at least 24 hours before the meeting to the extent practicable. Additionally, if the town maintains a high-speed internet website that is routinely used and updated, it must post records to that website at least 24 hours in advance to the extent practicable; however, the town is not required to spend additional money to implement the website requirement. Under the old law, towns needed to make records available and post them online to the extent practicable as determined by the public body.

Some things to keep in mind:

- This applies to all public bodies covered by Open Meetings Law, so your town board, planning board, and ZBA are all going to be impacted (and possibly others).
- The town can charge fees for copies in accordance with FOIL.
- Don't forget about the language "to the extent practicable" that exists in the legislation. While the town should be as transparent as possible, if a record does not come in until two hours before a meeting and needs to be discussed, it cannot be made available or posted online 24 hours in advance. Similarly, if a document is particularly voluminous and causing the town's website to crash, it isn't really practical to post that, and the town might consider posting a note instead that copies are available at the town hall. ***And again, the town does not have to spend money to upgrade its website to comply with this law.***
- Towns that use agendas to run their meetings will want to have it set at least 24 hours in advance so the board knows what records need to be made available.
- If a record does not exist, the town does not need to create one.
- Portions of some records may need to be redacted. Although the legislation does not explicitly address this, we suggest using FOIL as your guideline – so if it isn't disclosable under FOIL, then you should redact that portion of the record before making it available.

As always, for additional questions or guidance, member towns may contact our legal staff M-F, 8:30 a.m. – 5 p.m. at (518)465-7933 or via info@nytowns.org.

