

# Sunshine Law Amendments to Require Prior Public Notice of Official Actions at Board Meetings

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On June 30, 2021, Governor Tom Wolf signed into law Act 65 of 2021, amending the Pennsylvania Sunshine Act to establish new public notice requirements applicable to meetings of school districts' boards of school directors. The amendments become effective August 29, 2021.

## Posting of Agendas

In addition to any public notice requirements under the Sunshine Act, the amended statute will require the following:

- The meeting agenda must be posted to the school district's website not less than 24 hours before the meeting is convened. The agenda must include a listing of each matter of agency business that will be or may be the subject of deliberation or official action at the meeting.
- Copies of the agenda, including a listing of each matter of agency business that will be or may be the subject of deliberation or official action at the meeting, must be made available to persons attending the meeting.
- The agenda must be posted at the location of the meeting and at the principal administrative office of the school district. (Interestingly, the amendments do not specify that such posting be made in advance of the meeting. However, posting such information at least 24 hours in advance of the meeting would constitute good faith compliance with this requirement).

These notice requirements apply to any meeting where deliberation is expected to occur – even if there is no vote being taken. Consequently, such public notice is required for planning meetings and committee meetings. Notably, however, the requirements do not apply to executive sessions or conferences that are not required to be open meetings under the Sunshine Act.

## Changes to an Agenda

The new law also prohibits a school board from taking official action on a matter of business at a meeting if that matter was not included in the required public notification, *except* under certain circumstances:

- If the subject matter of the official action involves an emergency involving a clear and present danger to life or property;
- If the official action involves a subject that is *de minimis* in nature and does not involve the expenditure of funds or entering into a contract or agreement; and
- If, during the conduct of the meeting, a resident or taxpayer brings a matter of agency business that is not listed on the agenda, the school board may take action to refer the matter to staff for further research and potential inclusion on an agenda of a future meeting.

A matter may be added to the agenda during the conduct of a meeting upon a majority vote of the school directors present and voting at the meeting, and the reason for the added item is announced before the vote. For matters added to an agenda by a majority vote, the board may then take official action on the matter provided that it posts the amended agenda on its website and at its principal administrative office no later than the first business day following the meeting at

which the agenda was changed. Also, the official minutes of the meeting must reflect the substance of the matter added, the vote on the addition and the announced reasons for the addition.

**Practical Impact**

These new requirements and limitations create an additional burden on administrators to thoroughly plan board meeting agendas to ensure that necessary subjects of potential action are included. Additionally, school districts should review and revise their meeting policies to ensure alignment with this legislation.

For more information on the Sunshine Law or any legal topic, contact Matt Hoffman at [mhoffman@tuckerlaw.com](mailto:mhoffman@tuckerlaw.com).