

Wisconsin: Must Your Day-to-Day Meetings of Administrators, Teachers, and Staff be Open to Public?

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Government Law

Imagine your district's business manager convening a meeting with a team of professionals from each core subject area, to discuss curriculum budgets prior to presentation of the budget to the board of education...

Imagine your district administrator meeting with other administrators to discuss revisions to the school safety plan in light of a threat of a weapon or explosives on school property...

Imagine your curriculum director organizing a series of meetings with appropriate administrators and educators to discuss curriculum options for ninth grade language arts...

Now imagine having to provide notice and public access to these meetings under the Open Meetings Law.

Whether internal meetings of administration and educators on day-to-day issues are subject to the Open Meetings Law is a question currently pending before the *Wisconsin Court of Appeals*. The Court's resolution of the issue could fundamentally impact how superintendents, administrators, and teaching professionals conduct business in Wisconsin's school districts.

In the action before the Court of Appeals, a parent requested the district to establish an alternative communication arts course which did not include certain reading materials. An ad hoc internal curriculum review committee comprised of administrators and teachers was created to review the parent's request. As part of its work, the committee reviewed the existing course reading materials to determine whether an alternative course was necessary. The committee did not provide notice of its meetings or hold its meetings in public.

The parent subsequently sued the district alleging that the internal curriculum review committee was a "governmental body" within the meaning of the Open Meetings Law, and thus, was required to give prior public notice and conduct its meetings in a manner and place open to members of the public. The parent based his claim that the ad hoc curriculum review committee is a governmental body on the premise that the Board of Education is legally responsible for curriculum in the district and had delegated that responsibility to the ad hoc committee.

The trial court dismissed the action and concluded that the ad hoc curriculum review committee was not a governmental body because there was no evidence that the committee was created pursuant to any directive of the Board, but rather was created internally by administration as part of an effort to address a parent complaint about the curriculum. Even though the committee expanded its role to include an evaluation of a course reading list and the impact of common core standards, the decisions were all made internally by administration and not by the Board.

The trial court also rejected any argument that school boards have sole authority over the selection and review of curriculum such that any meeting of any group of individuals to discuss curriculum constitutes a meeting of a governmental body. The court recognized that administrative professionals and teachers have independent responsibility for planning, revising, and implementing curriculum consistent with state standards as part of their job duties. The court recognized that finding an internally created committee is a governmental body would have significant adverse effects on the ability of school administrators to address issues regarding curriculum that arise in the ordinary course of business.

It remains to be seen whether the Court of Appeals will affirm and recognize that internally created committees of administrators and employees are not subject to the Open Meetings Law. If reversed, this decision could have significant and far reaching ramifications for school districts, as it would raise the question of whether district administrators and educators could ever meet to address the education of students without first posting notice and opening the meeting to the public. We expect a decision from the Court of Appeals this Spring or early Summer.

Until then, districts should pay careful attention to meetings called by administration that address matters which have been statutorily designated as powers and duties of the Board. Districts should review the manner and method in which meetings are noticed and minutes taken. Finally, if issues are raised regarding a district's procedures with respect to meetings, districts should consult with legal counsel to ensure compliance.

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