

New Alabama Open Meetings Law.

In March of 2005, the Alabama legislature passed a new Open Meetings Act. The predecessor law, found at *Code of Alabama* § 13A-14-2 (1975) and commonly referred to as the Alabama "Sunshine Law," was repealed, and the new law goes into effect on October 1, 2005.

The Open Meetings Act applies to all "governmental bodies." The definition of a "governmental body" includes "all multimember governing bodies of . . . institutions . . . whose governing boards are comprised of members who are appointed or elected by the state . . ." It is likely that the new Open Meetings Act will be viewed as applicable to the Board of Trustees of the University of Alabama (though that is by no means certain). The new Act defines a "meeting" as a prearranged, or in some cases not prearranged, gathering of a quorum of the governing body, or a committee or subcommittee thereof, where it exercises its power or approves the expenditure of public funds. Not all gatherings of a quorum qualify as a "meeting," however. For example, social gatherings, conferences, training programs, and meetings with federal or state officials seeking support on matters of concern do not count as "meetings." When a meeting is scheduled to take place, the Act requires the governing body to give advance public notice of the meeting, to maintain accurate records of the meeting, and to allow persons in attendance to record the meeting by tape recorder or video recorder, providing that the recording does not disrupt the meeting.

The law deals with "executive session" meetings of a governing board. It defines those limited situations in which an executive session is permissible. These situations include meetings involving the following matters: the discussion of the general reputation and character or professional competence of an individual; the discussion of the legal ramifications of pending or threatened litigation; the discussion of security issues; the discussion of the price it is willing to pay, or certain other conditions, in a real estate transaction; or the discussion of matters that involve trade secrets. Members of the public or members of the media who believe that a governing board has improperly gone into executive session have the right to file a lawsuit in Tuscaloosa County to contest the propriety of the executive session. If the court determines that the executive session was improperly convened, the court has the power to invalidate any action taken during the executive session.

Some people mistakenly assume that an "Open Meetings" law means that all "public" meetings must be open to the "public." The new law brings needed clarification to the issue of when a public institution's meetings must be open to the public. For example, as already noted, the law likely applies to meetings of the Board of Trustees, but it does not apply to meetings of campus groups, such as departments, the faculty senate, University committees, etc.

If questions arise about the application of the requirements of the new Open Meetings Act to a particular campus meeting, the Office of Counsel can be consulted.